LAND-SYSTEMS

OF

BRITISH INDIA

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THE

LAND-SYSTEMS

OF

BRITISH INDIA

SUPPLIED FOR THE PUBLIC SERVICE

BEING

A MANUAL OF THE LAND-TENURES AND OF THE
SYSTEMS OF LAND-REVENUE ADMINISTRATION
PREVALENT IN THE SEVERAL PROVINCES

BY

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LATE OF THE BENGAL CIVIL SERVICE, AND ONE OF THE JUDGES OF THE
CHIEF COURT OF THE PANJÁB

WITH MAPS

VOL. II

Book III: THE SYSTEM OF VILLAGE OR MAHÁL SETTLEMENTS

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NOTE

SINCE the Chapters on N.-W. P., Oudh, and the Panjáb were in print, the following changes have to be noted:—

Pp. 5 and 8 (also *see* vol. i. p. 42). Act XX of 1890 has been passed: this removes the Jhánsí districts (Jaláun, Jhánsí, Lalitpur) from being 'Scheduled.' The districts are now subject to the ordinary law; all special laws (except that for the relief of Encumbered Estates) are repealed (sec. 14). The districts are added to the Alláhábád Division. As this Commissionership would thus become unwieldy, Jaunpur district is taken from it and added to the Benares division; and from the latter again, the districts of Gorakhpur, Bastí, and Azimgarh are formed into a new 'Gorakhpur Division' (head-quarters at Gorakhpur). Benares thus contains all the Permanently Settled districts (*North-West Provinces Gazette*, March 21, 1891, Not. Nos. $\frac{531-533}{1-549A}$ with effect from April 1, 1891. Correct the district table at vol. i. p. 63 accordingly.)

P. 268. As regards OUDH, Parts II and III of the Act XX of 1890 are declared (Not. $\frac{2095,}{1-549A}$ Dec. 20, 1890) to come into force on January 1, 1891. This places OUDH (from that date) under the jurisdiction of the Board of Revenue, North-West Provinces (and Oudh).

PANJÁB. p. 594 *note*. The Rules for 'the temporary exemption' of improvements from assessment in cases where the improvement is made with the aid of a loan granted under Act XIX of 1883, have been issued (Not. 653 A, Nov. 1, 1890), and are printed as an '*addendum*' to *Consol. Circ.* 30 at § 40, page 199 of the volume.

,, p. 760. The Circular order on 'Partitions' is now added as No. 64 to the volume of *Consol. Circ.*

ERRATA

P. 21, l. 15, *for* Settlements *read* Settlement
P. 100 *note, and* P. 112, l. 25, *for* khána-kháli *read* khána-khál
P. 132, l. 4, *for* can *read* could
Pp. 154, 603, and elsewhere, *for* 'inám *read* in'ám
P. 217, l. 12, *for* village *read* villages
P. 222, l. 15, *dele the brackets, and for* enumerated *read* recorded
P. 264, last line, *for* see § 12 *read* see Sec. IV. § 1
P. 294, l. 4, *for* it ought *read* the grant ought
P. 318, &c. Ajmer *should be* Ájmer *throughout*
P. 379, l. 26, *for* 'át' or uncultivated dry *read* 'át,' unirrigated or dry
P. 386, last line but one, *for* voice *read* share
P. 430, l. 9, *for* corn land *read* even land
P. 471, *note, for* p. 144 *read* p. 141
P. 488, l. 11, *for* subjects *read* subject
P. 678, l. 3, *for* these *read* the
P. 690, *note* 2, *for* Maun *read* Manu
P. 700, *note* 2, *for* § 459 *read* § 45
P. 704, *note, for* §§ 24–259 *read* §§ 241, 259
P. 758, l. 2, *for* deceased outgoing *read* deceased or outgoing

BOOK III.

THE SYSTEM OF VILLAGE OR MAHÁL SETTLEMENTS.

Part I.—THE NORTH-WESTERN PROVINCES AND OUDH.

Chapter I. The Land-Revenue Settlement (North-Western Provinces).

„ II. The Land-Tenures (North-Western Provinces).

„ III. The Land-System of Oudh—
  (Part I. The Land-tenures.
  Part II. The Oudh Settlement.)

„ IV. The Revenue Officers, their Powers, Duties, and Procedure (North-Western Provinces and Oudh).

„ V. On certain Special Districts in the North-Western Provinces.
  (South-Mirzapur, Kumáon, Jáunsar-Báwar, the Tarái District.)

CHAPTER I.

THE LAND-REVENUE SETTLEMENT (NORTH-WESTERN PROVINCES).

SECTION I.—INTRODUCTORY.

§ 1. *Grouping of Districts in the Province.*

THE origin of the 'NORTH-WESTERN PROVINCES' as a separate Local Government has already been stated in Chapter II. Vol. I. It need only here be repeated that the Province combines five groups of territory separately acquired. The annexed map shows these clearly :—

(1) The old 'Benares Province,' which was permanently settled by an extension of the Bengal Permanent Settlement Regulations[1], and is represented by the present districts of Benares (Banáras), the

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[1] The Benares Province was acquired in 1775 by treaty from the Nawáb of Oudh. For some years it was left in charge of its Rájá, who paid a fixed tribute or land-revenue to the Government. Some further changes took place in 1781; and in 1795 the districts were brought under the Regulations and Permanently settled. I have mentioned these particulars because in different books and reports, I have found various dates given for the acquisition of Benares. There is no doubt that the treaty of 1775 gives the real date of the province becoming British territory.

In 1879, that portion of the 'Ázimgarh district which had been permanently settled under the Regulation of 1795 (viz., the parganas Sikandarpur and Bhadáon), was separated from the rest of the district (subsequently acquired and temporarily settled). These two parganas, along with certain parganas transferred from Gházipur district and from Bihár (Bengal Government), in 1818 and 1832, now form the Ballia district.

northern part of Mirzapur, Jaunpur, Gházipur (Gháṡipur), and Ballia (Baliyá).

(2) The 'Ceded Districts,' i.e. ceded by the Nawáb of Oudh in 1801; these are represented by 'Ázimgarh (i.e. the district as it now is, separated from the permanently-settled parganas), Gorakhpur, Basti (to the east of the present Oudh Province), Alláhábád, Fatihpur, Cawnpore (Káhanpur), Etáwa, Mainpúrí, Etáh, Sháhjahánpur, Budáon (Badáyún), Bareli, Pílíbhít, Murádábád, Bijnaur, and the Tarái Parganas. In other words, the 'Ceded Districts' consisted of three districts east of Oudh, the 'Doáb' districts as far north as Etah and Mainpúrí, and the Rohilkhand districts.

(3) The 'Conquered Districts,' obtained by the victories of Lord Lake (A.D. 1803), and consisting of Agra, Muttra (Mathurá), 'Aligarh, Bulandshahr, Meerut (Mírath), Muzaffarnagar, and Sahàranpur. The 'Delhi districts' (Delhi, Gurgáon, Rohtak, Hissár, part of what was then Sirsa, and part of Karnál) were also among the 'Conquered districts' of 1803, but, under circumstances created by the Mutiny, they were transferred to the Pánjab in 1858. Of that province they are still a part.

(4) The district of Dehra-Dún (including the hill pargana of Jáunsar-Báwar) and the mountain districts of British Garhwál and Kumáon were ceded in 1815, after the Naipál war.

(5) The Bundelkhand districts, Bánda and Hamírpur (acquired between 1803 and 1817, by a series of events, which are detailed clearly and shortly in the *Administration Report, North-Western Provinces*, 1882–83, p. 31), and the districts of Jaláun, Jhánsi, and Lalitpur, which were variously acquired—by lapse, forfeiture, and agreement—between 1840 and later years[1].

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[1] These districts formed part of what used to be known as Bundelkhand or country of the Bundelas, south of the Ganges. The Bundelas

In dealing with a series of districts presenting such differences as these naturally do, some classification must be adopted.

We may, therefore, first separate the permanently-settled districts, enumerated in Group (1). We may also separate off the districts 'Scheduled' under Act XIV of 1874. These are—(1) Jhánsi Division districts—Jhánsi, Lalitpur, and Jaláun; (2) the hill country of Kumáon and British Garhwál, and the pargana of Jáunsar-Báwar; (3) the Tarái district at the foot of the hills presenting peculiar features of cultivation and climate; and (4) part of the Mirzapur district, consisting of certain 'tappas' or groups of villages, and also the southern part of the district below the Khaimúr hill range.

§ 2. *The Permanently-Settled Districts.*

The permanently-settled districts require so little separate mention, that I may as well say what is necessary at once. They were subjected in 1795 to the system of Settlement already formulated under the Bengal Regulations; and there is just the same admixture of estates as in Bengal; the bulk being permanently settled, but (owing to the Regulations II of 1819 and III of 1828), there being others which are 'taufír' or excess lands temporarily settled, and also lands which were claimed on invalid revenue-free titles. These districts, however, have all been completely and cadastrally surveyed, and records-of-rights made for each 'mahál' or revenue-paying estate. Nor is it the case that all the estates were settled with single Zamíndár-proprietors. In the *Fifth Report*[1], as well as in Reg. II of 1795, will be found a very confused account of the matter—both documents affording a good illustration of the ideas of the time, and how impossible it was thought that there could be any other method of holding land than by a single land-

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were a spurious Rájput clan descended from a Gahawár prince: there are but few of the caste in the British districts.

[1] Vol. i. p. 59 (Reprint, Madras).

lord with tenants under him. Briefly, what was meant was this:—Had the districts been settled in 1793, probably the Rájá of Benares would have been settled with as landlord of the *whole*—there would have been a single estate (of forty *lakhs* revenue); but, by agreement, he was set aside, and the Settlement was made with the 'village-Zamíndárs,' as they were called, i.e. the landlord or joint-villages (some of them bhaiáchárá communities such as the Resident, Mr. J. Duncan, described in 1796). The headman or representative was treated as if he was the *principal*, and the co-sharers were *inferiors*. But the whole body was made jointly liable. In some cases persons called 'Taluqdárs' were acknowledged as proprietors and Settlement-holders, because they had obtained the overlordship over several villages. These were, in fact, nothing more than the subordinate chiefs, or relations of the Rájá's family, or courtiers who had received grants for their support within the Rájá's domain, or represented minor estates held in 'feudal' subordination to the Rájá. They had acquired the position of landlords over the heads of the village bodies. Other parts of the Permanently-settled districts (e.g. Sikandarpur in Ballia [1]) were made up of small 'tappas,' each the site or location of conquering clans, which had in time formed a group of landlord-villages. These estates became divided up. Some of them also passed under Muhammadan landlords at the conquest. Hence the estates or mahâls to be settled were not conterminous with villages; some consisted of part of one village, others of one village and part of another; others of parts of several villages, and so on; but the proprietors of these groups or estates were always bodies of descendants of the original chief.

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[1] See also paragraph 123 of the *S. R.* of Sikandarpur and Bhádaon (now in the Ballia district, 1880). 'A feature peculiar to (parganas) Bhadáon and Sikandarpur may be noticed here. At the time of the permanent Settlement in 1197 Fasli (1795 A.D.) it appears that the Government revenue was assessed in lump sums on groups of villages forming the mahál or estate, without any details showing the amount payable by each village in the group: subsequently, however (in what year, by whom or under what authority I have not been able to trace) the total demand on each group was distributed over the mauzas . . . . thus the Government revenue is now 'mauzawár' (i.e., distributed over individual villages) for the most part.' During the recent Settlement operations, however, it was discovered that there were still some groups paying their revenue in a lump sum. The proprietors had the villages forming those groups separately demarcated, and subsequently voluntarily agreed to a distribution of the Government demand according to a standard rate *per bighá* obtained by applying the existing cultivated and culturable area of the group to the lump assessment . . . (the responsibility of the whole estate remaining intact). I presume that these were cases where some grantee or taluqdár had obtained an estate over the whole group, but his family now consisted of a body of shareholders who desired to have their estates (or shares) separately assessed, though theoretically remaining jointly liable to the State for the whole.

The Permanent Settlement of the Benares Province differs in many respects from that of Bengal. In Bengal there was no survey and no record-of-rights, and no local native revenue establishment, and the Settlement was always with some one landlord or Zamíndár, never with a body of village sharers (village communities being unknown). In the North-Western Provinces we have the districts cadastrally surveyed, a complete record-of-rights framed, and a local staff of village officers and 'Tahsíl' Revenue-collectors maintained as usual: the ordinary Revenue and Rent laws of the province are also in force. In fact, the Permanently-settled districts of the North-Western Provinces in no way differ from the ordinary districts, except in the one feature that the revenue, as assessed on the estates in 1795, is not liable to revision [1].

These districts will therefore need no separate treatment. Their tenures will be described among the others of the North-Western Provinces, while their Revenue administration, and the officers that manage it, are the same as those which will be described in the sequel for the province generally.

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[1] And amounts to not more than a third of what the neighbouring districts pay: at least that is the case in the 'Ázimgarh parganas, where from the rental tables it is easily seen that, while the revenue at 50 per cent. of the 'assets' (as in an ordinary Settlement) would be R. 3,50,943, it is in fact R. 1,90,392.

§ 3. *The Scheduled Districts.*

As regards the 'Scheduled Districts,' those of the Jhánsi Division will hardly need to be described separately from the rest of the province. The Settlements were made under the usual system, and anything special regarding their history or land-tenures will be mentioned in due course. The Revenue and Rent Acts are in force[1], and the peculiarities of the administration are such as do not affect revenue history[2].

The hill districts, the Tarái, and South Mirzapur, however, present certain distinctive features, which render it convenient to describe them respectively in separate sections.

§ 4. *Features of the Country affecting Revenue Administration.*

While, however, from the Revenue student's point of view, the bulk of the North-Western Provinces districts may be classed together, it is not to be forgotten that there are considerable physical differences which must always have their effect on many matters of Settlement and Revenue administration. Differences in climate, soils, and seasons, and in physical conditions generally, affect the methods and principles of assessment, as well as the determination of the periods at which the instalments of revenue are payable; they may necessitate special rules about suspension and remission of revenue; in not a few cases also, such local peculiarities have given rise to special features in the customs of land-holding and agricultural tenancy.

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[1] By a reference to section 1 of the Revenue and Rent Acts it will be seen that the Acts apply to the whole of the North-Western Provinces except certain districts mentioned in schedules appended to them. These exempt all Scheduled Districts (Act XIV of 1874), *except* Jhánsi, Lalitpur, and Jaláún.

[2] As regards other matters, the present system of district administration virtually dates from 1862, when orders were issued by the Government, North-Western Provinces, assimilating the system to that of the Panjáb and Oudh,—i. e. uniting the Civil, Criminal, and Revenue jurisdiction in the Deputy and Assistant Commissioners and Tahsildárs. These rules were legalised by an Act of 1864, which has been since repealed under the Act XIV of 1874. Now the districts of the Jhánsi Division have become 'Scheduled Districts' by Notification No. 686A, of 9th November, 1877. (See *North-Western Provinces Code*, second edition, 1886 (Legislative Department), Part IV, pages 544 and 558).

The Civil, Criminal, Police, and other organic laws do not differ from what they are in other districts. The Civil Procedure Code also has been extended, with the exception of certain sections.

The districts to the north-east of the Ganges resemble the Oudh districts, and are among the most fertile; irrigation is abundant, or the rainfall is such that irrigation is not a necessity of agriculture; the country is well-wooded, and mango-groves abound. The tenures and customs of these districts also resemble those of the Oudh Province, to which, indeed, they geographically and historically belong.

Passing over OUDH, which is the subject of a separate chapter, we come to the districts north-west of the Ganges; these constitute Rohilkhand, the country once the scene of the rule of the so-called Rohelas[1] (tribes of Afghán origin) in the second half of the eighteenth century. The districts immediately on the north-west of Oudh, between that province and the Ganges, again, enjoy an abundant rainfall from their proximity to the foot of the Himáláyas. Thus of Bareli we read: 'In the Doáb, irrigation is required to ensure a crop at all; here only to ensure it against drought. Even in the tracts traversed by the canals, . . . many cultivators prefer irrigating their more valuable crops by the lift (or *dheṇkli*), as they can get as much water as they require at the exact time they want it, at little or no money outlay[2].' In Bareli the Settlement Officer suggested that further canal extension would not only be unnecessary, but would be a great evil. Of Sháhjahánpur it is also stated that the climate is like that of most parts of Oudh and Rohilkhand. 'It is drier than (the climate) of Lower Bengal, but moister than that of the Doáb,' and the country throughout the year (till the rains come on) has some pretensions to looking green and fresh, and is not brown and parched like the Doáb.

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[1] The Rohelas arose subsequent to Ahmad Sháh's invasion, A.D. 1761, and, after a dominion of much rigour and cruelty, were suppressed by the Nawáb of Oudh's force in conjunction with his British contingent in 1773-4. (See Sir J. Strachey's *India*, p. 105.)

[2] See *Board's Review of the Bareli S. R.*, 1874, § 5. The Persian-wheel is not in use in the North-Western Provinces as it is in the Panjáb. The usual forms of lift are the 'charsa,' a great leather bag suspended over a pulley-wheel, let down and drawn up by oxen; or for shallow wells, tanks, &c., the 'dheṇkli,' a lever arm, at one end of which is the earthen pot or leather bag, and at the other a great lump of clay as a counterpoise.

West of the Jamná river, the country is comparatively arid, but with the exception of Agra and Muttra, the districts of this tract now belong to the Panjáb.

Between these two extremes lies the 'Doáb'; neither so dry as the Panjáb districts beyond Jamná, nor so fertile and well-wooded as Oudh and the East Ganges country. 'Here,' writes Mr. Kaye[1], 'are the signs of a more advanced civilization and of a fuller development of industrial energy and skill. Here are the large towns and the more important villages, and here the labour of man has striven to compensate for the deficiencies of Nature, and to make the soil yield abundant produce without the aid of the heavenly nourishment which is seldom wanting in the country to the east. Mainly upon artificial irrigation is the country dependent for the security of the crops. Within the North-Western Provinces there are soils of all kinds—from wet clays to light sands—adapted to the growth of various descriptions of produce—of sugar, of wheat, of rice, of cotton; and as many varieties of cultivators as there are soils under cultivation—Rájputs and Brahmans, Játs and Gújars.'

We may now at once proceed to consider the Revenue system under which these varied districts are settled and administered.

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[1] Kaye, p. 254.

SECTION II.—EARLY REVENUE HISTORY.

(From 1801 A.D. to passing of Reg. IX of 1833.)

§ 1. *Under Native Rule.*

It is hardly a matter of practical interest now, to trace in detail the history of the administration of these districts prior to their cession in 1801–1803.

The revenue collection had been oppressive, and was often managed under the system of farming, or through the agency of local Rájás and taluqdárs[1]. The governors cared nothing for landed rights; indeed, as conquerors, in many instances, they professed to know of none but their own. In Rohilkhand the Rohelas had stamped out every vestige of proprietary right. Speaking generally, it may be said that while the strength of the peculiar system described as the joint- or landlord-village enabled some estates to preserve their constitution, in many instances villages fell under the power of revenue-farmers and other individual owners, whose descendants formed in time a new proprietary body. The existing land-tenures are, to a considerable extent, the product of changes which the later native misrule and our own revenue mistakes, brought about.

The constant changes of government that the 'Ceded districts' underwent, were here, as always, a source of evil; for powers that are firmly established have time to organize and to be moderate, while conquerors, whose tenure is precarious, have no other thought than to wring the utmost out of the population while they may. Here, for instance, is a sample picture, taken from the Report of the important and now highly-advanced district of Cawnpore[2]:—

'Previous to the cession, the district had undergone many political changes, due to the decline and consequent weakness of the Mughal government. From A. D. 1737 to 1752 the district, or a considerable portion of it, was in the hands of Muhammad Khán Bangash of Farukhábád: in 1753 he gave way to the Maráthás, who continued in possession till the end of 1760: in 1761 the authority of the Nawáb of Farukhábád was restored, and remained in force till the middle of 1770, when it was again superseded by that of the Maráthás, who, in 1773, were finally expelled by Shujá'-ud-daula, under whom and his successors the district remained till cession.'

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[1] The *Fifth Report*, i. p. 63. Where there were no Rájás or Taluqdárs, the Nawáb divided the territory among his 'ámils, and left everything to them.

[2] *S. R.*, § 79. I have 'translated' the 'fasli' or Muhammadan agricultural years of the original into the ordinary dates.

The district was then managed by Ilmás 'Alí Khán as Názim. He was a Ját by birth. His policy was to discourage the letting of large taluqas, and engage with village-owners direct. The result of his management appears from the account of Mr. Welland, the first revenue officer after the cession. The revenue was so heavy that, after paying it, the cultivators had no stock left. At sowing time the Government manager was obliged to advance money, seed, cattle, and even the implements of husbandry; and the value had to be repaid out of the crop, with interest. No doubt this grinding taxation was—like all the Muhammadan 'Ámils' assessments—an elastic one; and the chief skill of these revenue locusts consisted in their aptitude for taking or letting go in each season, according to what was possible, without actually causing the cultivator to abscond or his family to starve. No wonder, then, as Mr. Welland wrote:—

> 'The subjects in this part of the country are in the most abject poverty. Let the face of the country be examined, and there will hardly be a manufacture found, or an individual in such circumstances as to afford payment of a tax. The whole is one desolate waste, over which tyranny and oppression have hitherto universally prevailed.'

Another example from the Bareli district (Rohilkhand)—quite another part of the country—will suffice.

After the expulsion of the Afghán Rohelas in 1774, one of the chiefs was allowed to remain in control, subject to Oudh, till 1794, when, his son succeeding him, a revolt broke out and fresh troubles ensued. Under the Nawáb Wazír of Oudh, the government was no better: the system was 'tyrannical and exacting in the extreme, and the district seems to have lost its former prosperity, and large tracts of land fell out of cultivation[1].'

Mr. Moens, the Settlement Officer, quotes the graphic account given by the Rev. Mr. Tennant, who accompanied a British force in one of the expeditions of the time: writing in 1799, he says:—

> 'This fine country . . . has, within the last twenty years, become a desert. Extensive wastes everywhere meet the eye, which were lately in cultivation, but which are now covered with long grass which, in the hot season, becomes so parched as to be easily combustible. Such an extent of desolate and rich fields was nowhere to be met with but in Rohilkhand: amidst the present solitude and gloom of this province, you see evident traces of its former cultivation. The clods left by the plough are not yet melted down so as to assimilate with the surface, nor is the grass of that extraordinarily coarse and reedy species which rises upon fields in their primeval wilderness, or that have long been out of tilth—a very little effort would bring it back to its productive state.'

The condition of the 'Conquered Districts'—namely, the districts of Agra and Mathura, and those to the north on the left bank of the Jamná—cannot have been much better. In the southern districts the incessant troubles and successive contests of Mughals, Játs, and Maráthás in the eighteenth century, must have had their evil effects. In the northern districts, the Muzaffarnagar reports contain fuller particulars[2], and once more we have a dismal picture of anarchy, of constant struggles and of marauding expeditions, in which Sayad landholders, Patháns, Játs, Gújar chiefs, Rohelas, Sikhs, and Maráthás successively figure, contending for the spoil.

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[1] *S. R.*, p. 40 (1874).

[2] See, for example, S. *Report on the Ganges Canal Tract*, p. 27.

§ 2. *Under early British Government.*

Bad as was the state of things generally both in the Ceded and Conquered districts, the first years of our own rule were far from an unmixed blessing. In some cases the first revenue assessments were excessive, while the only then known plan of securing payment, viz. selling the estate if the revenue was not duly paid, led to numerous forced transfers of property, with all their attendant frauds and injustice, and to all the evils of revenue-farming, when purchasers willing to pay up the arrears were not forthcoming. Even when order was firmly established, and protection to landed rights given, the rigid and irresistible inelasticity of our conscientious and well-meant, but mistaken system, proved hardly more tolerable than the perfectly unconscientious but elastic system (or want of system) that preceded it. From our mistakes there was no escaping; for the evils of native rule, in its days of disorganization, there was at least compensation in the chances of fortune, the excitement of a fight, and the occasional gains that might result to any one possessed of exceptional energy or skill.

A curious letter from Mr. Dumbleton, one of the early Collectors (about 1809, but unfortunately the date is not given), is printed at page 38 of the *Cawnpore Settlement Report*. The Collector explains that he assessed by calling for bids for the villages or tracts by persons accustomed to take contracts in former years. The 'sadr jama,' he says, invariably appears at an increase on the general estimate of gross produce (!). He tells the Board that for 1210 Fasli (A.D. 1802) the Settlement 'pressed beyond a fair demand,' and that one-fifth of the district was sold for arrears. Of course, if the area cultivated had not been greatly understated, and the produce too, the assessment, even when bid up by rival farmers, could never have been borne at all. As Mr. Dumbleton says, the severe rates of the Nawáb's government were then stereotyped '*without* the same elasticity in realizing.'

But this is somewhat to anticipate the course of our narrative.

§ 3. *Intention of Government to Settle Permanently.*

On the annexation of the 'Ceded' Provinces, the design first entertained, and directed by the Regulations, was to administer and settle them on the same principle as Bengal. The volumes of the Bengal Regulations[1] show, in 1803, what is called 'the Oudh Code' enacted for the Ceded Districts. It commences with a brief law for the codification of all the Regulations, and goes on with a series of Regulations which are, in fact, transcripts of the law of Lower Bengal with such modifications as were needed[2].

By Regulation VIII of 1805, this code was extended to the 'Conquered districts.' At first, it seems to have been expected that the Settlement would be made with 'Zamíndárs' and 'taluqdárs,' for throughout the early Regulations we find this allusion to the 'Zamíndárs, independent taluqdárs, and other proprietors.'

Mr. Holt Mackenzie notices this[3]. The old Bengal idea was evidently dominant, which was that there would always be some one proprietor to be settled with, and perhaps, inside his estates, some other, who, on special grounds, would prove entitled to be separated off and dealt with independently. Knowledge of the village communities and their rights was then hardly in existence[1].

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[1] I refer to the East India Company's authorized edition, published under the editorship of Mr. Clarke, in two quarto volumes.

[2] Those curious for details may look through the Regulations I–XXXVIII of 1803, some additional enactments in 1804, and especially Regulation V of 1805. They deal with the general law, the Courts, the Board of Revenue, Revenue records, and the realization of the land-revenue, &c., &c. The Settlement Regulation for the *Ceded* Provinces was No. XXV of 1803, followed by V of 1805. A similar Settlement law was made for the *Conquered* Provinces by Regulation IX of 1805. These were followed by Regulation X of 1807, to which allusion will be made presently. When the Conquered Provinces were placed under the Regulations the whole area was declared subject to them, but was directed to be formed into 'five zillahs' (Agra, Bundelkhand, 'Aligarh, North and South Saháranpur) to which the specific provisions were afterwards applied. These districts did not (and geographically could not) include the districts on the right bank of the Jamná, part, but not all, of which were exempted specially, because they were managed politically; their revenue was required for the support of the titular King of Delhi. (The exempted tract is described as 'the city of Delhi and the conquered territory situated on the right bank of the River Jamná, the revenues of which are assigned,' &c. But a large part of the territory, e.g., Gurgáon, Rohtak, Hissar, and Sirsa, was never assigned and so does not come within the description.) These tracts are now in the Panjáb, and the legal difficulty about their subjection to Regulation law need not occupy us here.

[3] See paragraph 460 of his Minute

The early history of the land Settlements is so bound up with the history of what I may call the discovery of the village communities, and with the revenue sales and other arrangements which so profoundly affected North-Western tenures, that the two can hardly be separated.

§ 4. *First steps taken.*

Proclamations were issued in 1802 and 1805, announcing that a first Settlement would be made for three years at the existing revenue rates: on the conclusion of that, another three years' period would follow, at a rate which might be enhanced with reference to the difference between the old revenue total and the actual yearly produce of the land. A third Settlement would be then made for four years at a further enhanced rate, while, at the conclusion of the ten years thus accounted for, a permanent Settlement would be concluded *for such lands as should be in a sufficiently improved state* of cultivation to warrant the measure.

It is interesting to notice that although the idea of a landlord-Settlement was still colouring the thoughts and expressions of the authorities, some doubts and cautions as to the applicability of a permanent Settlement were beginning to find their way. The substance of the proclamations had been embodied in the first Regulations, but these rather went beyond the scope of authority, since Home sanction was, of course, required to any scheme of permanence: and this was in fact not accorded; so that the

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of July 1st, 1819, and compare the language of section 53 of Regulation XXVII of 1803.

[1] The account of Benares, written in 1796, and already alluded to, is the only exception that I know of.

Government was obliged to declare (by Regulation X of 1807) that the promise of a Permanent Settlement should be taken subject to the sanction of the Home authorities[1].

§ 5. *The Position begins to be understood.*

Those doubts were destined to be greatly strengthened by the experience that was gradually gained. Indeed, the whole subject came to be looked at from a new point of view, between 1807 and 1820, not only as a consequence of the inquiries made in the North-Western Provinces, but of the general interest in the subject excited by the strong 'Raiyatwárí' minutes of Sir T. Munro in Madras, and his visit home and conferences with the Directors in 1807, as well as the inquiries made about 1814–18 all over Madras and Bombay regarding village communities.

It is almost curious to note what a change came over the language of Minutes and Regulations during this period, which in fact originated a new departure in Revenue matters.

The history of these years, as reflected in the State, papers of Southern and Western India, may be seen in my introductory chapters on Bombay, and especially of Madras. Here we must briefly sketch what happened in the North-Western Provinces, and how things led up to the starting of a new Settlement system, the first form of which was laid down by Regulations VII of 1822 and IX of 1833.

§ 6. *Appointment of a Commission which became the Board of Revenue.*

When the second of the triennial Settlements above noticed came to an end, the final quartennial one had to be made; and as this, it was expected, would become permanent, some natural anxiety was felt for its being made on the basis of adequate information. It was therefore thought desirable to have a Special Commission to make it. A Member of the (Bengal) Board of Revenue and a Civil Servant were accordingly appointed, aided by a Secretary and Staff, and armed with full powers. It was soon found that this Commission was permanently required, and Regulation I of 1809 therefore constituted it a 'Board of Commissioners in the Upper Provinces,' to which was intrusted the general supervision of Land Revenue Administration in the said Provinces—which were still theoretically part of Bengal[1].

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[1] The Home authorities, as we shall see presently, refused sanction; and Regulation IX of 1812, further rescinded the general promise because sanction had been denied: but section 4 maintained the idea of a permanent assessment of estates that were fit for it. Regulation X of 1812 (for the Conquered provinces) was similar; see section 19 of Holt Mackenzie's Minute

Reg. X of 1807, secs. 1-4.

No sooner had the Commissioners commenced their inquiries, than two subjects came into view. The first was the question which, down to our own times (till it received its quietus in 1882), has occupied so much time and attention, was—What is the standard by which an estate should be judged as to its fitness for permanent Settlement? The second subject was the real ownership of the soil, and the question who were the proper persons to be settled with? As regards the first subject, the point to which attention was chiefly directed, was the proportion of the estate under cultivation. That matter which received so little notice—or perhaps I should say was deliberately excluded—in Bengal[2], was now felt to be important. In after days, an estate of which 80 per cent. was cultivated, was decided to be, so far, in a fit state; but then other questions arose; and no sooner was a new test applied and satisfied than another appeared. The latter phases of the question have been described in Vol. I. Chap. V. The idea of a Permanent Settlement has been finally abandoned.

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[1] And so remained, the student will recollect, till the Act 3 & 4 Will. IV, Chapter 85, section 83 (A.D. 1833), when a 'Presidency of Agra' was formed; the orders were not carried out, but a Lieutenant-Governorship erected instead.

[2] Holt Mackenzie spoke of the Bengal Settlement as 'a loose bargain . . . intended rather to tax the individual than the land.' (Minute, section 270.)

§ 7. *The Commissioners' Report.*

The Commissioners submitted a first report in 1808, and pointed out how much land lay uncultivated—a fact little to be wondered at, considering the previous history of the country. They dwelt on the insufficient knowledge possessed, the sparse population, the want of capital, and also the difficulties about rights which I will mention presently; and finally they reported dead against a permanent Settlement. The Government of India was at that time quite opposed to the report; but the Court of Directors at home had probably learned from Munro, in 1807, something about the failure of the Permanent Settlement in Madras, and the discussion that was there going on about the plan of settling with *villages* or with individual raiyats; and they supported the Commissioners. In 1811 two separate despatches came out prohibiting the Permanent Settlement, and ordering another five years' Settlement as a temporary measure[1].

Meanwhile inquiries and Settlement proceedings went on—first in Cawnpore, then in Bareli and Sháhjahánpur. But in the course of the inquiries, not only was the stage of development found to be such as rendered a permanent Settlement undesirable, but also the second of the subjects above noticed was deeply considered. The result of the Cawnpore Settlement was that it was declared open to revision not only after the resources of the district were better known, but after a fuller inquiry into *individual* rights.

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[1] The first despatch, February 1st, 1811, says: 'Before undertaking so arduous a task as that of irrevocably settling in perpetuity, we have always considered a patient and laborious scrutiny of individual rights . . . . together with a minute and detailed survey of the extent of cultivation and productive powers of the territory, as indispensable.' And again, in the despatch of 27th November, 1811, the Directors expressed their 'caution in the most pointed manner against hastily extending the Bengal Permanent Settlement to the North-Western Provinces.' And they later (16th March, 1813 and 17th March, 1815) declined to say that a degree of cultivation which left not more than ⅓ to ¼ waste, was a proper standard by which to decide the fitness of an estate for permanent Settlement. They also required that no Settlement should be declared permanent without sanction from home.

See *Kaye*, p. 234; and *Field*, p. 640.

Following the orders of 1811, the Settlements were made for five years, and on the expiry of the term, the same assessments were continued for another five years, and this brought up the time of expiry to 1822–1826 for both sets of districts, 'Ceded' and 'Conquered.'

§ 8. *The Land-tenures are studied.*

Meanwhile information as to the state of landed tenures was coming in. The result was, that though in 1818, the Board of Commissioners thought a permanent Settlement might be now attempted, the several Settlements already made were acknowledged to be so imperfect that the Government and the Court of Directors alike refused to allow them to be permanent. Thus it was that, with a view of getting some better work done, and on some defined system—which hitherto had been the great want—Mr. Holt Mackenzie, the Board's Secretary, wrote his famous Minute of July 1st, 1819[1].

This remarkable State-paper, it is hardly too much to say, not only laid the foundation of the modern Settlement system which now prevails in Upper India and the Central Provinces, but is the starting-point of our modern knowledge of North Indian Tenures.

§ 9. *Actual state of Land-tenures.*

It will not be supposed that nothing was needed, as the basis of a proper Settlement system, beyond the due recognition of the joint bodies owning lands aggregated into villages. Former systems of government, as well as historical events, had left matters in a much more complicated state. In some parts, local Rájás, and leading men who had acquired the position of 'taluqdár,' had been so long accustomed to manage the revenues, and had obtained such a hold on the land, that it was matter for nice discrimination whether they had or had not, by this time, grown into actual proprietorship; in other parts, villages had lost what proprietors they may once have had, and had for years past been held by and settled with, some headman or contractor; the result also of the old Sale laws had placed many individuals in possession (now long established) of existing villages; and we shall see hereafter how often these individual village 'landlords' have become the origin of what are now the joint-bodies of a 'village community.'

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[1] This is to be found with other reports and papers in *Selections from the Revenue Records of Government, North-Western Provinces*, 1818–20, Calcutta, 1866.

But after allowing for all drawbacks, the recognition of the customary tenure of groups of co-sharers in the village lands, was an essential preliminary to a fresh Settlement: and the distinguishing feature of Northern Indian Revenue Settlements is, that, as a rule, it is made with bodies of co-sharers, jointly liable to Government for their revenue.

§ 10. *New Ideas make their way slowly.*

It was, however, but slowly that a change in view regarding proprietorship was wrought. Up to October 27th, 1818, as I have already mentioned, we find even the Board recommending that a permanent Settlement should now be concluded, and urging that a survey and minute inquiry into rights were not possible. Fortunately, these ideas did not prevail. In insisting on a systematic survey and inquiry at Settlement, Mr. Holt Mackenzie called attention to the danger of delay, lest every one who happened to be the person made responsible for the revenue ('sadr málguzár' in the old revenue language) should become stereotyped as 'proprietor' because his interest was 'so naturally conceived to be that of absolute and exclusive property,' and because his means of destroying or evading the rights of his 'inferior tenants' were so powerful[1].

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[1] (Minute, §§, 310-322.) The following sketch from the *Board's Review* of the last Bijnaur Settlement Report will give a good idea of how things stood at the early Settlements. It should be premised that in Bijnaur there were an unusual number of considerable taluqdárs, who were recognized as 'owners' and settled with. Thus in the

The Minute complained that the words 'possession' and 'property' were commonly used without any definition of the nature of the possession or the sort of property. 'Long possession' of superior holders might mean that they had every right to certain emoluments and privileges, without altering the property in the soil. There was, again, 'a tendency to draw evidence of proprietary right rather from the records of Government . . . than from local inquiry into the facts of actual possession, and to convert the representatives of the village community and the managers of its concerns with Government, into the sole proprietors of land[1].'

After a review of the different state of the districts, as being in the hands of one class or another, the Minute proposed a number of measures which, it was argued, could not be avoided, if success was to be attained. The villages must be surveyed, and a record-of-rights prepared; the proprietary bodies would be represented by headmen, whom it was pro-

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district a little more than 40 per cent. of the estates are classed as 'Zamindári;' that is, having a single taluqdár-owner, or being owned jointly by several sons or descendants of such a taluqdár. For the rest of the district estates, the Board writes :—

'When the district first came under British administration, the rights of Zamindárs (landowners) were unrecognized, nor, indeed, do we know whether any such class existed. The process of Settlement was essentially summary. Rough statements of village areas, former rentals and produce, enabled the Collector to fix a *minimum* jama, and the right to collect rent and pay revenue was then put up to auction, with this as an upset price, the highest bid . . . . being accepted. . . . . . Substantially the same system was in force during the first five Settlements (1801–1822). The rights of the landowning class were recognized for the first time at the sixth Settlement, it being then laid down that the assessment of the preceding Settlement should remain in force for five years in all cases "in which that Settlement may have been concluded with Zamindárs or persons acknowledged as the proprietors or possessors of a permanent interest in the mehal (unit estate of assessment)." Who these people were it is impossible now precisely to tell. When the district first came under British rule, . . . no persons were acknowledged to have a permanent proprietary interest in the land. . . . In some cases, in all probability, persons who had managed to get the contracts for villages in the preceding Settlements, were recognized as proprietors; elsewhere, persons who were really tenants rose into that position. However it came to pass, which is now a mere matter of speculation, a proprietary class had arisen.' (Section 4, *Board's Review: 20th Revision of Settlement*, Bijnaur, 1874.)

[1] *Minute*, §§ 405–424 And much of this was traceable to the vague language of the Regulations of 1803–5, on which I have already remarked.

posed to call 'lambardárs[1]'; the rates of assessment should be revised so as to be equalized rather than extensively enhanced; revenue-payers should have their rights secured, such as they were—not made into proprietary rights if such they were not—and yet not injured.

The assessment was not merely to be a question of putting down what native officials said the former collections had been; but it was to be found out, by a real inquiry into the circumstances of each village, what was the proper amount for it to pay.

§ 12. *The Minute produces Regulation VII of 1822.—The Persons settled with.*

The main suggestions of this able Minute were adopted in the Regulation VII of 1822, and this marks quite a new era in Land-Revenue Administration.

As regards the result of inquiries into the origin and constitution of village communities, and the nature of landed rights, these will more fully appear when we come to speak of the land-tenures; here—regarding the Settlement from the Revenue-Administration point of view—it is enough to say that the Settlements under the new method of 1822, were made in some cases with Rájás and others—taluqdárs and Zamíndárs of large estates—who had become 'landlords': but these were rather exceptional than otherwise. In such cases, where there were distinctly surviving village communities under the landlord, the former would be protected by what Regulation VII calls a 'mufassal Settlement,' i.e. while the revenue payable by the landlord to Government was settled with him, it was also determined what sum the village-body should annually pay to the landlord for the whole term; it was not left to be matter of contract, or periodical enhancement by Rent-suit in Court. Sometimes, where the claim of a superior was less strong, the Settlement would be made with the heads (muqaddam) of the 'inferior proprietary' body[1] (biswadárs), and the taluqdár would get only a fixed cash allowance or percentage on the revenue. In a still larger number of cases the village communities were settled with as the sole proprietors, the 'lambardár' being the representative of the jointly responsible body.

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[1] I believe this title is found for the first time in § 622 of the *Minute*: the idea is of a representative of the body, who has a 'number' in the Collector's register of persons who are to pay in the revenue to the treasury (Wilson). In Northern India it has now taken the place of all other names for headmen. There may be one lambardár or more; if there are several divisions in the estate (pattis), there may be a lambardár for each. The term first appears on the Statute book in Regulation IX of 1824.

In many cases the real or original village-body had so long ago disappeared or sunk into the condition of tenants, that the present 'actual proprietors' were the descendants of a revenue-farmer who formerly had been placed over the village. Sometimes—as we shall see hereafter—such persons had originally got a footing by an act of usurpation: but not always, for often the farmer had taken the management of, and sole responsibility for, the estate or village, when really there was no one else to do so.

Lastly, there were a number of 'ownerless' villages; and with these the Settlement would be made with farmers called in revenue language 'mustájir,' who in time would be recognized as proprietors[2].

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[1] And in Revenue language of the older reports this was called a 'muqaddami biswadári' Settlement.

[2] In all these cases there is some one between the actual cultivators and the State; and therefore the older books, rather misleadingly, insist on saying that the Settlement of the North-Western Provinces is a 'Zamindári' Settlement, because either there is an actual person—a Zamindár or taluqdár—settled with, or there is an ideal 'Zamindár'—the joint-body—(and the joint responsibility which is theoretically enforceable)—between the individual shareholders and the State. It would be much better, however, to keep the term 'Zamindári Settlement' to indicate the Bengal and Northern Madras Settlements, where there is a real person called 'Zamindár,' in the official sense, who has been made proprietor and holds the settlement-engagement with the State.

If a distinctive term is wanted, the North Indian Settlement should be described as the 'Village or Mahál Settlement' system, inasmuch as it deals with estates, not with fields.

§ 13. *Practical difficulty in working Regulation VII.*

The theory of the scheme enacted by Regulation VII of 1822 was excellent; but the local machinery was, in its then existing condition, both as regards number and the training of the subordinate establishment, altogether inadequate to its realization. The law imposed a double task. First, there was the judicial or quasi-judicial determination of questions of right, custom of tenure, and so forth. Secondly, there was the fiscal part—the assessment of the revenue. The first portion might have been accomplished with some assistance in the way of more officers; but the second proved to be so little understood as to be, at first, impossible of performance.

§ 14. *A proper method of assessing Revenue was not yet developed.*

The cause of this impossibility was, that our first administrators, with all their skill, could not all at once devise a sound principle of assessment. Indeed, the principle has only recently—after a long series of experimental stages—developed into an adequate but sufficiently simple practice.

The old Bengal notion of a mere reference to lump-sum payments shown in the former Records, being necessarily superseded, it was (not unnaturally) at first supposed that, in order to ascertain the revenue which represented the Government share of the produce of land, the true produce of every field must be ascertained; so that, after deducting the ascertained costs of cultivation, the wages of labour, and profits of capital, the 'net produce' might be known, and the share of Government (a fraction of the net produce) determined)[1].

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[1] There is nothing in Regulation VII of 1822 that *directly* enjoins the discovery of the actual produce in grain of each class of land: but the terms of the law were held to imply this, as a necessary preliminary to arriving at the required conclusion regarding a true assessment

Such a task was, as I have said, beyond the power of the staff, and, after some years of laborious effort, it was found that no progress had been made. But the authorities were in earnest. Mr. R. M. Bird made a new proposal, which shows what progress cash-rents were already making. He suggested that the prevailing rent-rates should be ascertained, and that moderate revenue-rates—for the term of Settlement—should be deduced from this basis: the aggregate sum being thus ascertained, it should be distributed over the different holdings. The Governor-General wrote a detailed Minute not approving of a plan for fixing the rents of cultivators, but it was held that an aggregate assessment might be fixed on general considerations and be distributed over the holdings.

§ 15. *Conference of Revenue Officers.*

In order to evolve a practicable scheme of assessment, a conference of officers was assembled, over which the Governor-General (Lord William Bentinck) presided in person; and the result was the passing of Regulation IX of 1833, which, besides removing a number of administrative difficulties, and providing for further aid in the matter of establishments, abolished the (real or supposed) legal necessity for an inquiry into the actual produce of lands and cost of production as the basis of all assessments[1].

(as opposed to the arbitrary or traditional assessment on the basis of old records). Section 6 no doubt speaks of 'determining the extent and produce of the lands and the amount of *jama*' properly demandable therefrom:' and section 7, speaking of the new Settlements to be made after *Fasli* 1234, says that the assessment is to be 'fixed with reference to the produce and capabilities of the land as ascertained at the time when the revision was made.' The *Government orders*, however, spoke clearly of ascertaining the extent and produce of land, 'the *value of the produce* and the *cost of production*' (*Admn. Rep.* 1882-83, page 42). 'It seems necessary,' wrote the Governor-General in Council, 'to enter upon the task of fixing in detail the rates of rent and modes of payment current in each village and applicable to each field.' . . . The rate on each field was to be calculated from an estimate of its produce. (Quoted in section 4, despatch to Secretary of State, No. 17, dated 17th October, 1882.)

[1] It is not, however, to be won-

§ 16. *Regulation IX of* 1833.

It will not be supposed that the Regulation of 1833 altered or overthrew the *principles* that were established eleven years before; it merely simplified the method of assessment, and rendered work possible. By Regulation IX, 'the majority of judicial cases were transferred from the Settlement Officers' Courts; estimates of produce and its value, and of rent, were simplified, and the system of average rent and revenue rates, actual or assumed, for different classes of soil, was introduced.' Rents (of tenants) were to be fixed for the term of Settlement or other period, after the revenue had been determined. The patwári's papers (village statistics) were put on a new basis, and the general use of the field map (shajra), and field register (khasra), which are now the foundation of all assessment work, was prescribed for the first time[1].

SECTION III.—THE LAND-REVENUE SETTLEMENT PROCEDURE.

§ 1. *Introductory.*

The first 'Regular' Settlements under the Regulations VII of 1822 and IX of 1833, were made between 1833 and 1849, for a term of thirty years, except in a few districts

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dered at that the ascertainment of produce and the deducting of costs should have been deemed essential. Calculations of this sort are still made in Settlements in South India and elsewhere, not indeed as independent guides, but as checks and helps. The old Akbarian Settlement, as I described it in an early chapter, fixed an arbitrary, but moderate, share of the gross produce and valued that in money. In 1822 such a plan was not thought suitable. So that the only way of assessing on a principle which contemplated a definite share of net produce, was to ascertain the *net profits* of the landowner, and require him to share that profit with Government. It will be noted that cash-rents, which now play such an important part in assessment calculations, were at first, less usual; —so that the most equitable and hopeful thing to do (in theory) was to try and find out what the land yielded in weight of grain, and what it cost to raise that weight, and then find the net profit and take part of that.

[1] *Administration Report*, 1882-83, page 43.

where, for special reasons, the term was reduced[1]. The standard of assessment was two-thirds of the gross *rental*, in cases where the land was held by tenants paying a money-rent (this rental being calculated and corrected for rent-free lands, in a manner presently to be described). In cases where the tenants paid in kind, or where there were large numbers of proprietors cultivating their own holdings, two-thirds of the 'net assets' was the standard. The net assets were ascertained in various ways, which the Settlement Officers devised, and the authorities countenanced, in supersession of the laborious method proposed by the law of 1822, on which I have already remarked.

Mr. Stack[2] writes: 'These Settlements proved successful as a whole. The original proprietors disappeared under them in many districts, but cultivation generally increased, and the fact that the assessments have almost everywhere been raised on revision, proves that they were tolerably fair when first imposed.'

§ 2. *The Directions for Settlement Officers.*

In 1844 Mr. Thomason drew up a Code of 'Directions for Settlement Officers,' which embodied the results of experience gained. These, with the 'Directions for Collectors,' were published in November 1849, and formed the well-known 'Directions for Revenue Officers,' which continued for many years to be a standard of official reference. In 1855 certain modifications were introduced, embodied in what are known as the 'Sahâranpur Rules.' These reduced the Government share from two-thirds to one-half, and substituted plane-table survey for the rough chain survey previously practised. To embody these important changes, a new edition of the 'Directions' was issued in 1858.

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[1] Dehra Dún and parts of Bundelkhand were settled for shorter periods. The term (qánúni or) 'Regular' Settlement has become general, and means the Settlement which was first made in detail, with both assessment and record of rights, as opposed to the 'Summary' Settlement, which was a preliminary and temporary arrangement, made when a province was first acquired, often consisting only of a rough adjustment of the revenue payable. When a 'First Regular' Settlement expires, there is a Re-settlement,' or a 'Revision' of Settlement.

The dates of the expiry of the first Regular Settlements had become confused owing to causes which are stated in the preamble to Act VIII of 1846, and dates of expiry were accordingly fixed by the Act; they ranged from 1860 to 1874.

[2] *Memorandum on Current Land Revenue Settlements* (Government of India, 1880), page 46. The disappearance of the proprietors spoken of, was the result of the want of elasticity which characterized our early management. Punctuality in discharging the instalments at due date was insisted on and enforced by the prompt sale of the estate.

§ 3. *The Land-Revenue Act.*

In 1873 the administration of revenue matters had so far advanced, and outgrown the older Regulations, that a complete Land Revenue Act could be passed (Act XIX of 1873). Some idea of the simplification of the law thus effected may be formed, from the fact that Act XIX supersedes and repeals about fifty Regulations, or parts of Regulations (including Regulation VII of 1822 and part of Regulation IX of 1833), as well as eight Acts of the Legislative Council.

Under this law, and the rules framed pursuant to it, the Revision- or Re-settlements, which became due with the expiry of the Sahâranpur Settlement in 1857, and have been in progress up to 1882, were made.

§ 4. *The Settlement work now over.*

The work done and reported on in these later Settlements will, in all probability, never have to be done again, except in some special districts. The recent measures for maintaining the land records in a state of constant accuracy, and the rules made for simplifying the work of assessment, will make all future revision a matter of a different and much less laborious kind[1]. But the Act is worded (of course) as providing for work then going on, or to be undertaken; therefore in the sequel, in describing the 'Procedure of Settlement,' I make use of the present tense for convenience, as if we were in the midst of Settlements actually in progress under the Act. No misapprehension will result when once the matter is explained.

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[1] I need hardly apologize for repeating that, in the old days, when the maps and records-of-rights were faired and deposited in the Collector's office, there was nothing in the way of really efficient machinery to keep them up to date, or to show year by year what changes in the map (in the area and shape of fields), occurred; and transfers of ownership were very imperfectly registered. The result was that when the new Settlement began, the whole work had to be done over again. (See Vol. I., p. 356.)

§ 5. *The Settlement is 'mahálwár.'*

I may take this opportunity of explaining that the North-Western Settlement is not always by villages, or, in revenue language, 'mauzawár'; the village is not always the unit of assessment. It is rather 'mahálwár,' i.e. the assessment is on an 'estate.' It may happen that an 'estate' held under one title, consists (owing to peculiarities of custom) of the whole or portions of several villages: on the other hand, as the result of partitions, there may be more than one estate in a single 'village' or *mauza*.

The estate or group of holdings, owned under one title, i. e. by a single owner, or by a community or proprietary body, is the unit of assessment, as opposed to the 'raiyatwári' method, under which each field or individual holding is separately assessed.

It is a question of fact, and of the circumstances of the case, what area or group of holdings may be regarded by the Settlement Officer as the 'mahál' or unit of assessment.

Act XIX of 1873, sec. 3.

The Act defines the 'mahál' to be—

(*a*) Any local area held under a separate engagement for the payment of the land-revenue, and for which a separate record-of-rights has been framed;

(*b*) any local area of which the revenue has been assigned or redeemed, and for which a separate record-of-rights has been framed.

A third clause empowers the Government to constitute any grant of land under 'waste land rules' a separate 'mahál.'

§ 6. *Stages of the work.*

With these preliminary remarks we may now proceed to consider the procedure at a Settlement. The stages are; (1) the notification that a Settlement is to take place and the appointment of officers; (2) the demarcation of boundaries; (3) the survey; (4) the assessment; (5) the record-of-rights and adjustment of the rents of tenants.

The present chapter will deal with these stages *seriatim*. It is followed by one which endeavours to explain what the rights in land (land-tenures) are, which it is the object of the record-of-rights to define and secure.

§ 7. *How a Settlement is set in operation.*

A Settlement, or such part of the proceedings of a Settlement as may be necessary, is set in operation by a notification in the official *Gazette*, which specifies the district or other local area to be dealt with.

In these Provinces, where all districts had already been settled, some of them several times, before the existing revenue law, Act XIX of 1873, came into force, nothing more is prescribed[1] than that the notification should place the area generally 'under Settlement,' or declare that a 'record-of-rights' only is to be prepared. It might be the case that the record-of-rights in a permanently-settled district or elsewhere required preparation or reconstruction without touching the assessment; or the assessment (as will, indeed, in future most often be the case) is to be revised without any survey or interference with the record-of-rights.

Act XIX of 1873, sec. 36.

It will be observed that the modern law recognizes the features of a North Indian Settlement acquired in 1822, viz. that there is not only a survey and a determination of the revenue to be paid by the mahál or 'estate,' but also an inquiry into and record of, the rights of co-sharers and of tenants, as well as all other rights and customs and matters affecting the revenue administration.

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[1] Throughout I refer to Act XIX of 1873, as amended by Act VIII of 1870, and as it appears in the North-Western Provinces Code, 2nd edition, 1886 (Legislative Department). It was further amended by Act XV of 1886, but only so as to enable the Local Government to appoint an 'additional' Commissioner to Divisions where one was not enough.

§ 8. *Legal Duration of the Settlement.*

Every local area put under Settlement by a notification Sec. 36. remains 'under Settlement' till another notification declares the operations to be closed.

§ 9. *Settlement Officers.*

The officer in charge is called the Settlement Officer, and there may be as many 'Assistant Settlement Officers' as is deemed necessary. And such officers have the powers conferred on Settlement Officers by the Act as long as the Settlement lasts in the district or part of a district.

The Settlement work is controlled by the Commissioner of the Division and ultimately by the Board of Revenue.

§ 10. *Boundaries of Districts and Tahsils not a Settlement matter.*

The boundaries of districts and revenue or fiscal subdivisions are, of course, public matters, and do not affect any private right; they are determined by Government under the powers vested in it by law[1].

§ 11. *Village and Field Boundaries.*

Not so the boundaries of (mauzas or) villages, or the boundaries between one man's field and another. As the object is both to assess revenue on definite areas and to secure all classes of rights which also subsist on the land, it is evident that a survey and registration of holdings and interests is a necessary preliminary (supposing such not already to exist) for a Settlement. But before any survey can be made, all boundary disputes must be settled; or, at least, it must definitely be known that such and such a line is in dispute, so that it may afterwards be put in correctly when determined by proper authority. The village boundaries are first determined before the revenue survey begins, and then other boundaries may be settled, if necessary, when the field-to-field survey comes on. But such disputes are generally of a different kind to village boundary cases, and usually depend on some claim to individual right which is settled by a land-case in court.

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[1] Act XXI of 1836 (for Bengal and North-West Provinces) gives power to creat new zila's or districts; Act XIX of 1873, section 14, provides for subdivisions in the North-West Provinces. For purposes of civil and criminal jurisdiction, the Procedure Codes contain the necessary provisions.

The Revenue Act contemplates this. The Settlement Sec. 40. Officer is empowered to call upon proprietors to restore or erect boundary marks. A boundary dispute is distinguishable from a dispute about a right to land: two persons may, for example, be in possession, generally, of contiguous lands, and may be agreed about their respective titles and about the record-of-rights; but they may be in doubt as to the precise line of demarcation between their respective possessions. If one party shows that, rightly or wrongly, his possession extends to a certain point, that is the boundary line according to possession. A question of right, that the boundary ought to go in some other direction, is a question for a civil suit, unless the law enables it Sec. 230. to be decided by arbitration.

§ 12. *Question of Possession.*

In the *Directions* it is said that possession can never be unknown, but, remarks Mr. (now Sir) Auckland Colvin[1], it is often difficult to discover:—

'A field is often entered during successive years in the *jamabandi* of both disputing villages; the crop grown, the amount thereof, the name of the owner and cultivator, are elaborately recorded. Inquiry on the spot and from neighbouring landowners by no means always clears the matter. These are often either indirectly interested or ignorant. It is well in such cases carefully to examine the *roznámcha* and *bahi-kháta* of the patwárís concerned, and to ascertain in which patwárí's papers entries regarding the field in question are most frequent. These papers are less open to suspicion than the *jamabandi*, as reference to them is less looked for.'

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[1] *Settlement Manual*, 1868, p. 4, s. 6.

In waste or uncultivated land, disputes are more likely to arise; because really it often happens that neither side has had exclusive possession: both have made occasional use of the area for grazing their cattle, for cutting grass or firewood, and that is all. Here reference must be had to former maps prepared by authority. These may not always be forthcoming, or there may be reason to doubt their accuracy; then there must be a recourse to arbitration or to a civil suit.

§ 13. *Settlement of Disputes.*

The Settlement Officer may settle boundary disputes, but is bound to decide on the básis of possession, or refer the matter to arbitration [1] for decision on the merits.

§ 14. *Thákbast (Village Boundaries).*

For survey purposes the first thing to do is to lay down the boundaries of the separate mauzas or villages, which are always known areas distinguished by local names. It was the uniform practice, in demarcating village boundaries at Settlement, to identify important points, such as the junction of the boundaries of three or more villages, by masonry pillars ('trehaddi,' or in the Persian form 'sihhaddi') different in form from other pillars or marks[1]. Wherever there had been a dispute, a continuous trench was dug, or more than usually conspicuous and permanent marks were set up. Charcoal and other substances were often buried under the pillars, so that, even if the superstructure were destroyed, the site of the pillars might be easily determinable. In most other cases earthen or mud pillars are sufficient and are generally used.

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[1] In the North-Western Provinces consent of parties is not necessary to a reference, if the reference is ordered by the Settlement Officer (section 220). It *is* in Oudh (section 191, Act XVII of 1876). Where possession cannot be made out, and where arbitration is not resorted to, the only remedy is a regular civil suit.

In cases where there had been no previous Regular Settlement, or where new maps had to be prepared, a 'thákbast naksha,' or boundary map, was prepared for each village, and with it there was also drawn up a formal record showing the manner in which the boundary lines were ascertained, and the proceedings in connection with the decision. All this work was done long ago, and there is no occasion for any further detail.

The procedure for the repair and maintenance of boundary marks at all times, i.e. after the Settlement is over, will be found in the chapter on 'Revenue business.'

§ 15. *Waste Land included in Boundaries.*

This is a convenient place to notice a subject of considerable practical importance. I allude to the question how far waste and jungle land, adjoining, or by repute included in, the local area of a village, was held at Settlement to *belong to* the estate.

In the North-Western Provinces there was no difficulty: in these, as in all the provinces, there are in certain places, tracts of waste, hilly country covered with forest, and similar unoccupied lands, which do not come under the operation of the Settlement at all, but remain to be disposed of by Government. Putting aside, however, these extensive wastes, there were many districts in which the whole area came under Settlement, although the actually cultivated lands were limited and separated from one another by intervening tracts (of greater or less extent) of forest, jungle, barren land, grass land, or other description of 'waste.' In most cases this waste was known by the local name of one or other of the 'mauzas' or villages adjoining it, and was claimed as part of the village property. It seems that, except in the case of considerable jungles that were obviously excluded from the known areas of villages, the waste was always allowed to, and included in, the adjoining estate by the name of which it was known. To this there were some exceptions,—besides the hill districts and other places where extensive wastes existed, already mentioned. In Dehra-Dún, for example, all the waste was excluded at the first Settlement, and it was determined to declare it all as belonging to Government. This was, however, under the local circumstances, doubtfully legal. Ultimately, it was decided to include in the villages the waste that fairly adjoined them, and to reserve for Government the large forest-clad tracts that nobody had a reasonable claim to. Out of this area many valuable State-forests have now been constituted[1]. In Sahåranpur the waste tracts at the foot of the Siwálik hills were marked off as the property of Government, but in 1839-40 various leases were given out. The result has been that certain grantees still hold land; but a considerable portion remained available to form forest estates.

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[1] See *Directions*, §§ 13–15; S.B. Cir. Dep. I. p. 1.

In the Jhánsí Division (especially in Lalitpur) there are tracts of forest-waste on the slopes of the Vindhyan hills. When such wastes were in a Thákur's estate (jágír or ubárí estate) they were all held to be included in the grant. But in the case of ordinary villages, at first (in 1865), all the considerable tracts of waste were reserved to the State, and clauses to this effect were entered in the Settlement 'wájib-ul-'arz,' or papers describing the village rules and custom. In 1867 this was considered unfair; the clauses were struck out, and the waste distributed among the villages, in amounts equal to double or quadruple the cultivated area; only the surplus (about 10,900 acres) was reserved to the State[1].

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[1] See *Dehra-Dún S. R.*, 1871. This district contains 715 square miles of cultivation, and 277 of State-forests, 37 square miles being taken up by towns, cantonments and unappropriated waste. On the original waste, 32 grants (30,129 acres) had been made on terms of a clearing lease, and 16 (25,237 acres) 'in fee simple.'

§ 16. *Legal Provisions regarding Waste.*

The subject of surplus waste is dealt with in sections 57–60 of Act XIX of 1873. When the waste has been included in the area of a 'mahál' it belongs to the owner of the estate. But there is a provision that if any 'mahál' has an area of waste included within its boundaries, and yet in excess of the 'requirements of the owner . . . with reference to pastoral or agricultural purposes,' a separate Settlement may be made of such excess land, and the Settlement is offered to the owner of the 'mahál.' If he refuses, then it becomes a 'separate mahál at the disposal of Government,' but the owner of the original estate gets a 'málikána[2],' an allowance which indicates an existing or other right of property which is, as it were, compromised in this way. Waste land, which has neither been included in an estate at a former Settlement nor 'judicially declared' to be part of any estate, is marked off and declared to be Government property, subject to any claims under Act XXIII of 1863[3]. But still, if the owner of 'the adjoining estate' (which I suppose means any estate which adjoins) proves that he has had the *use* of the land for 'pastoral or agricultural purposes,' then an allotment is made; the Settlement Officer separates off so much of the waste as he thinks sufficient, and gives it up to the estate-owner, Sec. 60. while the rest is marked off 'to be the *property* of Government[1].'

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[1] *Lalitpur S. R.*, sec. 97 and 114.

[2] This is a very curious provision; it has come down from old times, and shows how little our earlier administrators cared for the theory of a thing as long as a practicable rule was arrived at. It seems as if the 'surplus' waste was the estate-holder's property, and yet it was *not*. It is so far Government's that Government judges whether the owner requires it or not; and if it thinks not, assesses it as a separate estate and may give it to some one to hold. It is so far the estate-holder's, that it must be offered to him in the first instance; and if he does not take it, he gets 'málikána'—a sort of compensation for his lost right.

[3] This Act was intended to enable claims to ownership or rights of user to be settled in waste lands. It is so badly drawn, and its provisions so impracticable, that I have rarely heard of any action being taken under it.

§ 17. *Older Method of Revenue Survey.*

The boundaries having been adjusted, every village and 'estate'—where the estate (or mahál) is not conterminous with a village—is now known as to its external boundaries. And naturally the survey is the next thing to speak of. It is not necessary to describe the older methods: how the work was divided into two independent sections—a professional survey giving the outer boundaries of the villages, and that of the patwárís or survey-amíns under the Settlement Department, filling up the interior and field boundaries. All that is now a thing of the past[2]. The result was, however, so far the same as that of the present system, that two essential documents were prepared as the basis of assessment work, viz., the 'shajra' or field map (usually on a scale of 16 inches or sometimes 8 inches = 1 mile), and the index to the map or 'khasra,' a descriptive register of fields[3] numbered according to the series of numbers on the

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[1] It will be observed that this indirectly, but clearly, condemns the erroneous doctrine that a person can acquire a *property* in the soil itself by merely exercising some *rights of user* over its surface or enjoyment of its natural produce. The section asserts the right of Government in the soil, and buys off the rights of user by giving up a portion of the land and leaving the rest free for Government; this is *something* like the French method of 'cantonnement' in buying out rights of user in State forests.

[2] The 'Revenue Survey' gave the Settlement Officer (1) an accurate record of the total area of each village; (2) a correct boundary configuration map showing waste and cultivated land; (3) what still remain as the 'Revenue Survey maps' of the whole district or pargana, showing village boundaries, &c., on a scale of 2 inches = 1 mile or sometimes 1 mile = 1 inch.

[3] 'A field is a parcel of land lying in one spot in the occupation of one cultivator or of several persons cultivating jointly, held under one title, and generally known by some name in the village. The plot of ground surrounded by a ridge of earth (*mend*) (to retain water) is not necessarily a field. Some of these ridges are more permanent than others, and serve to divide the land into fields, bearing separate names. The boundaries of fields are well known to the people, and are some-

'shajra.' The Settlement survey was thus often spoken of as the 'khasra survey.'

The oldest Settlement surveys had the fields merely measured, and plotted in by eye; but in 1852 plane-table survey was introduced, and then field maps of considerable excellence were produced, both by some of the patwárís who had learned, and by 'amíns' who, though generally uneducated, learned surveying professionally. The later maps took no notice of local measures, which vary from district to district. The unit of area was the 'Sháh Jahání' bíghá —a square of 55 yards (3025 square yards) or 60 'iláhi gaz.' This was everywhere understood, and was not inconvenient, as it is exactly five-eighths of an acre, while its side is one thirty-second of a mile, and is measured by exactly half an inch on maps of the scale in use[1].

§ 18. *The Cadastral Survey.*

The older method was in the later Settlements (from 1871 onwards) gradually replaced by the 'Cadastral' Survey, which was entirely done on improved methods, by trained surveyors under officers of the Survey Department. The plotting was on a scale of 16 inches: the work was, of course, more costly, but then it was absolutely reliable[2].

The survey, in whatever form, results in putting into the Settlement Officer's hands the two documents which are the basis of *all* Settlement work, viz.:—

(1) *The village field map* (shajra).

(2) *The village field register* (khasra), showing names of

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times distinguished by particular marks, such as the growth of certain grasses, stones, &c. In rich and irrigated land the separation into fields is generally permanent, but in light unirrigated lands it is liable to constant alterations. The field register (*khasra*) should show where the limits of fields are fixed, and where variable. The patwári should be careful not to show two fields as one, nor to divide one field into two.' (*Directions.*)

[1] See *Administration Report*, 1882–3, page 50, and also Chap. V of this manual, Vol. I. p. 275.

[2] The maps are multiplied by photo-zincography: the Board of Revenue were good enough to show me the process of map-making; nothing can exceed the beauty, simplicity, and clearness of these maps. The survey has cost per thousand acres sums varying from R. 289 in Muttra to R. 279 in Murádábád, and R. 200 in Hamirpur.

proprietor and tenant of each field, the area, crop grown, and means of irrigation (well, canal, &c.); details about uncultivated land are also given.

A survey of this kind was also undertaken for the permanently-settled districts in 1877, and is now completed.

The survey is, in Revenue language, 'mauzawár,' i.e. it goes by *villages*: they are the *local* units; the survey officer, as such, could not always determine what are the 'mahâls' or estates which the Settlement Officer, on considerations of land-tenure, separate right, and other such matters, will treat as his unit of assessment.

§ 19. *Survey of Alluvial Lands.*

In many districts there are estates or portions of estates liable to be affected by the action of rivers. I do not here speak of the rights resulting from the law of alluvion, but merely of the revenue practice in separately grouping and surveying such changeable areas for the purposes of assessment.

It is a rule[1] that in any estate in which one portion is liable to fluvial action, i.e. where there are extensive areas of sand which may be rendered fertile at some future time by deposit of river silt, or where part of the estate is either actually severed by the river from the main estate, or where the lands along the bank may be washed away, or may be added to by deposits; in all such cases, this portion of the estate is separately marked off by boundary pillars, and settled as a separate 'alluvial mahâl' for five years only (if the Settlement Officer has not specially fixed the time). This Settlement does not absolutely exclude alteration during its currency, in case of an unusual increment or decrement caused by exceptional action of the river. In such cases the estates are measured, and the revenue assessment adjusted, even though the five years have not elapsed. The assessment is not interfered with in *any* case unless the assets (on which the revenue is calculated) are affected to the extent of 10 per cent. increase or decrease, since the last revision.

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[1] See section 257 (*a*), Act XIX of 1873; also S. B. Cir. Dep. I. pp. 18 and 38.

SECTION IV.—THE PRINCIPLES OF ASSESSMENT OF THE LAND-REVENUE.

§ 1. *Preliminary Remarks.*

For a Settlement Officer, this, of course, is *the* important subject. As regards new assessments, the main guide will be the North-Western Provinces 'Rules for assessing the Revenue demand' (under Section 39, Act XIX of 1873)[1]. But before describing these, it will be well to give some account of the earlier methods, because they throw light on the Settlements of other provinces, if for no other reason.

The first regular Settlements were made, as already mentioned, between 1833 and 1849 A.D. It may be mentioned at the outset, that the first method of assessment practised after Regulation IX of 1833 was passed, was one which was designed to meet a state of things when the practice *of letting land to tenants at customary—or on contract—cash-rents, was rapidly growing, but had not yet become universal.*

§ 2. *Distinguishing Feature of the North-Western Provinces Assessments.*

As a matter of fact, cultivation by tenants paying cash rents has since become so universal, that the method of assessment has become entirely dependent on the money-rental income of each estate.

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[1] The rules referred to in the text were approved by the Government of India (No. 562 R., dated 24th August, 1880). The rules are supplemented by instructions, issued for each Settlement. The rules, moreover, must be regarded as to some extent experimental, and are liable to modification. It is also probable that in estates found to be in a completely developed state, and where all the circumstances warrant it, any future revision will be conducted on a much simpler principle.

This circumstance has given a distinctive feature to the assessment of the North-Western Provinces as a whole. In the Panjáb, for example, the landowners let only an insignificant portion of the land to tenants at all; and even then the tenants do not usually pay a cash-rent, but some portion of the crop in kind. This, of course, must necessitate a different basis of assessment.

I have to deal with three stages of progress in the practice of assessment:—

(1) The early method, called the method of 'aggregate to detail.'
(2) The theoretical rent-rate system.
(3) The actual rent-rate system.

The first method is still of some interest, because of its connection with the later methods, and its partial retention in some Settlements.

§ 3. *First Method—Aggregate to Detail.*

It will, I think, be sufficient if I go back to the days of the celebrated *Directions to Settlement Officers* by Mr. Thomason.

The method of assessment there recommended, may be generally described as the method of 'aggregate to detail.'

Usually a considerable tract or circle—may be a whole pargana—was taken, and it was first ascertained what the previous revenue of the whole had been, either under the Native Government, under a British 'summary,' or last 'regular' Settlement. By the aid of general statistics, knowledge of prices, and so forth, the Settlement Officer could form an idea of what the new Settlement might fairly demand. Then he tested this total by seeing how the village totals would stand, in order to make it up: and then, if he was satisfied that the village totals were fair in themselves, and that added together gave a fair pargana or circle revenue, there was (finally) the distribution of the village totals over the several holdings. If he was not satisfied, he could modify his figures, and by working them backwards and forwards, get out sums which gave fair results.

That is, roughly stated, the general idea. Let us now examine the process a little more in detail[1].

§ 4. *The System as described by the 'Directions.'*

In the first edition of the *Directions*[2] this practice (of taking an aggregate sum to start with) is directly recommended; and the Settlement Officer is advised, after roughly assuming a fair *jama'*[3] for each village, to determine the new *jama'* of the pargana by adding together his separate estimates, and then to re-distribute this total over the several villages.

No fixed rule was at first laid down prescribing that the Government revenue should bear a certain proportion to the assets of the estate; but it was stated to be desirable that the demand should not exceed two-thirds of the 'net produce': this being defined as the profits of cultivation in the case of land held by cultivating proprietors, or the gross rental on lands held by tenants. The Settlement Officer was warned not to attempt to ascertain the net produce of every estate; and he was cautioned against treating the actual net produce as a certain basis of assessment, when he fancied he had discovered it. His duty was to estimate the capabilities of the tract or pargana, and to fix, for each estate in it, a revenue which would leave a fair profit to the proprietors, and create a valuable and marketable property in the land.

In fact, the older system was one of a sort of enlightened guess, or estimate, which was arrived at on general considerations, and was afterwards justified to the controlling authorities by various calculations. There was, of course, the former revenue on record, whether that of the Native

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[1] The following paragraphs are derived from the text of my first manual, very kindly revised for me, under the orders of the North-Western Provinces Government, by Mr. Hooper, Settlement Officer of Basti.

[2] *Directions for Settlement Officers*, paragraph 47 et seq.

[3] The student will remember this familiar Revenue-term jama' (Arabic—meaning 'total sum'): it always refers to the lump or total sum assessed on the estate as Land-revenue proper—apart from extra cesses (siwai) leviable by law.

Government of a summary Settlement, or that of the last regular Settlement. The Settlement Officer first grouped his villages into suitable circles where the conditions were the same: because the same soils and crop-yielding lands would naturally bear different rates according to the advantage and disadvantage of general situation and conditions. There would be a group of canal-watered villages, another on low moist land, another on high land with deep wells: one group would be on the high road and accessible to market, another would be more remote. Then the Settlement Officer had a list of all village lands, cultivated, culturable waste, and unculturable, with details of irrigation; he had statistics of increase in cattle, and population, and knew how far cultivation had extended during the previous years. On general considerations he could make a good estimate of the general rise that the different villages ought to show: and adding these together, he would get the pargana total: supposing the addition showed a too sudden rise on the old total, that would lead him to reconsider the village totals. Then also recourse could be had to the opinion of respectable landholders, and of the pargana officials. Moreover there were cases where villages in the neighbourhood, of a generally similar kind and condition, were known to be fairly assessed, and these would afford a guide. Really, the *pargana* and *village totals* were arrived at by general calculations, and *then* tested by drawing out acreage rates for different kinds of soil.

It will be observed that this method gave a general guide for estimating the *amount* of the revenue for the pargana or estate, but did not prescribe any particular *process* for calculating it. The *Directions*, in fact, distinctly declared that a fair assessment could not be obtained with certainty by any fixed arithmetical process, and advised the Settlement Officer to proceed openly on the assumption that the operation was not one of arithmetical calculation, but of sound judgment and discretion.

As to the incidence *per acre*, of the revenue, rates were worked out, and were employed, both as a means of testing the total *jama'* for the tract, and for the assessment of the separate village lands in it. These rates as a rule depended on, and were deduced from, the estimate for the tract; they were assumed to be suitable on more or less sufficient grounds; but the selection of them was generally governed by the principle that the product of the rates into the cultivated area should result in an approximation to the total sum previously determined on. There might be one general rate for the whole pargana, or there might be rates for different soils: if the villages had been grouped into circles, there would be a separate rate or set of rates for each circle.

Assuming that the pargana estimate was correct and the rates suitable, still it would not be fair to assess every village simply by multiplying the revenue rate over its area. In every tract or group of villages, there would be some which were above the average, and some which were below it; and the average rates would be too high for the worst villages, and too low for the exceptionally good ones. The Settlement Officer, therefore, before finally fixing the village *jama'*, would test his rates in a variety of ways in order to see that they were suitable for the particular village he was assessing. He could compare the rental of the land given by his 'soil rates' with what the rental came to when calculated by rates on each plough (a method of payment often adopted by the people), or by rates on each well[1] or by rates obtained by valuations of produce. He could compare the incidence of the proposed rates with those actually paid in the village, or with those paid in similar villages in the neighbourhood; statistics of crops, irrigation, and so on (with inspection of the land), would show whether a village was of more or less than average fertility. Estimates of the real capabilities of the estate could be obtained from tahsíldárs and kánúngos or from respectable neighbouring landowners.

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[1] That is, on the locally recognized area or block which one well waters; this would vary from village to village according to the depth of the well, the character of the soil, &c.

Again, experience of the working of the current Settlement might show that the village was already heavily assessed, in which case, although the average rates might suggest an increase, it would not be advisable, in the particular case, to propose it. And there were also often local circumstances which could not conveniently be allowed to affect the average rates, but which might be allowed for by a general reduction on the *jama'* [1].

Thus, in distributing the estimated demand for the tract, the special circumstances and capabilities of the individual villages would be taken into account; such additions to, or deductions from, the *jama'* (calculated at the proposed revenue rates), would be made as the case might require, and a fair assessment at last arrived at.

When the revenue for the cultivated area had been decided on, it might be that some additional assets were to be allowed for. There might be a large amount of culturable waste, which, though not then under the plough, might easily be cultivated, and the assessment would be raised for this, not of course to such a figure as would be attained by making the whole pay at cultivated rates, but by adding a fair lump sum for the prospective advantage. There might be also valuable jungle produce; an addition would also be made for this.

I have devoted some detail to this earlier method, because, not only was it adopted in the first Settlements, but the principles by which the fairness of the new assessment were to be tested, are still of general application.

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[1] It is not necessary to go into this subject. I may, however, mention an instance. It is well known how *castes* differ in agricultural capacity; some are by birth bad cultivators and lazy, and others are naturally good cultivators and diligent. This tells on the land very much: the one will raise crops which will meet with ease a revenue that would crush a village of another caste on precisely the same soil. It was not thought possible, at least in the North-Western Provinces, to fix a generally different set of rates for each different caste; the matter can generally be best provided for either by the moderate reduction of the rates in the particular village, or by some such general allowance on the total *jama'* as that alluded to in the text.

§ 5. *The Second System—Theoretical or Calculated Rent-Rates.*

The method just described was, however, superseded in the North-Western Provinces by the system of 'rent-rates,' to be next described; and this in turn has lately been modified by rules designed to secure a much simplified procedure; the great improvement in the accuracy and fulness of village agricultural statistics effected in recent years, has, it is believed, rendered this now practicable.

§ 6. *Origin and Progress of Money-Rents.*

Before describing the 'rent-rate' method, I must explain how *cash-rents* came to be customary. The Introductory chapter in Vol. I. has explained that the earliest form of Government revenue was the Rájá taking a certain share out of the village grain-heap on the threshing-floor. It has also described how, in the reign of Akbar, the State-share was converted into a money assessment[1]. As population increased, estates became multiplied by extension of cultivation and by the division of family property; at the same time coined money[2] became more plentiful. In short, as it became more difficult to manage the revenue collection in kind, it became easier to levy a cash revenue, the means of paying in money being more attainable. Akbar's revised Settlement was based on the tenth of the average of actual collections during ten years of the reign. But it is only in districts to which this Settlement extended, that money rates were substituted for grain rates on such a principle. It was more common to take no thought of the value of land, but to assess a fixed annual charge per plough. This, it may be remarked in passing, is in itself enough to give the first impulse to 'competition for land,' because men would find out that one farm was more profitable than another, though it had the same plough rate.

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[1] Vol. I. Chap. V. p. 278. See also some admirable remarks on the process by which a change from grain to a cash-revenue was effected, in Mr. W. C. Benett's *Gonda Settlement Report*, 1878, § 97 et seq.

[2] The use of coined money was known in India from an ancient date; but that is not the same thing as coin being commonly current as a medium of exchange in country districts. It was very long before that happened. To this day in some 'backward' districts, it is surprising how many of the simple village transactions are matters of barter rather than buying and selling.

These rates became well known; and crystallizing, like everything Indian, into being 'the custom,' they may have survived all changes for a long time. Succeeding governors however revised the assessments from time to time, and with but little reference to the historic Settlement of the Rájá Todar Mal. So long as the Government remained strong, the rates fixed were respected, and extra charges were limited in number and levied by proper authority. No doubt, however, the rates that were then taken, having regard to the value of produce and the extent of land under cultivation, were quite as high as *could* be paid, and often represented the entire profits, leaving the cultivators only enough to live on.

When the British rule was introduced, all this came to an end. It was considered an essentially just and wise policy to recognize or confer a proprietary right in the land, and consequently to hand over to the proprietors so recognized, the produce- or money-rates paid by the non-proprietary cultivators;—rates which would formerly have been directly taken by the king's agents. In return, our Government engaged with the proprietor that he should pay to the treasury a sum, fixed for a term of years, which was a moderate share of what it was estimated he could fairly make out of his estate. *The old customary revenue rates (with such local alterations as time and circumstances had brought about) thus became the rents which the proprietors got.*

Having, however, recognized proprietary right, we did not desire to withhold what were, at any rate from a European point of view, the natural and legal consequences of that proprietary right. Except where we stepped in with enactments to protect certain specified classes of 'tenants,' we left the proprietors free to get more rent out of the land, if it could be got by fair means dependent on competition and the increased value of the soil and its produce; and that very soon came to be the case. Waste land was eagerly taken up for cultivation: good government brought security and peace; roads, railways, and canals were made, and the value of land rose greatly; while population increased with it. Produce of all kinds also sold for a far higher price. The managers of estates no longer had to seek for tenants and to coax them to remain; people began to come and ask for fields to cultivate, and were willing to bid against each other for them. The rents could then no longer remain at the old rates; but what they really were and how they changed, it was not easy to ascertain.

§ 7. *Rents regarded as the chief Assets of each Estate.*

According to the modern theory, the State revenue is a fixed and moderate share of the proprietor's annual assets. Now the 'assets' of the estate consist of:—(1) the money rents received from tenants, *plus* (2) the rental value of land held by the proprietor, or allowed by him to be held rent free, *plus* (3) sources of profit (called in revenue language 'sáir'), such as income from jungle products, fruits, and fisheries, and the advantage of a (perhaps considerable) area of culturable waste used, *ad interim*, as pasture land.

The *rental* is the principal thing; and the question was:—since we have no longer rents fixed by custom to deal with, but something like real rent-rates dependent on competition, and yet the true facts are mostly concealed from our knowledge; how are we to get at the proper rents which should be the basis of our calculation? That was the question to be answered under the second method of assessment practised.

§ 8. *The proportion of Assets taken by Government*[1].

At this point it is necessary to note the changes which have from time to time been made in the rule determining what proportion of the 'assets' of each estate should be taken as the Government Land-Revenue. At the 1840 Settlement the share to be taken by Government was fixed at 66 per cent. (two-thirds)[2]; at the late Settlements, the officers who made it were directed to take about a half, it being left to their discretion to increase the proportion in cases where they thought the landlord could pay it, or reduce it where they found the proprietary body were numerous and impoverished.

'It is admitted . . . that the Settlement Officer should go below the sum which he may arrive at by assessing at 50 per cent. on the rates prevailing in the pargana, in cases where, from the excessive number of cultivating proprietors, or from other causes, a full assessment would press too heavily. The question whether a like discretion exists where an assessment above 50 per cent. would still be a light assessment, is a more doubtful one. . . . It would be difficult to lay down any distinct rule, but the Lieutenant-Governor would not object to a discretion being left to assess such properties at a somewhat higher rate . . . provided the amount of the excess . . . . . is clearly stated or fully justified in the village statements.' (G. O. No. 1966A, dated 13th September, 1873, and No. 1379A, dated 5th June, 1874). Practically the rule was this: if the assessment exceeded 55 *per cent.* or fell below 45 *per cent.* of the entire assets, the special sanction of the Board was required; and so it still remains.

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[1] This section is mostly quoted from the *Administration Report*, 1882-83, page 43.

[2] Lord W. M. Bentinck said, in his Minute before alluded to, that 'a relinquishment by Government of 30 or 35 per cent. of the estimated gross rent (by which, the Minute explained, the proportion or value of produce after defraying wages of labour and profits of stock, was meant) would seem to be sufficient, under the most unfavourable circumstances, to serve as a remunerating return to cover all expenses and risk of collection.'

§ 9. *Consideration of the 'Assets' resumed.—Rental of Sír Lands.*

I must now go back to the paragraph in which I stated what constituted the 'assets' of which the proportion (at first 66 per cent. and afterwards about 50 per cent.) was taken as 'Revenue.' The proprietor's rental is the main 'asset'; but all the land held by the proprietor does not bear a rent. His own home-farm does not; and hence it is a question, What rental value is to be put on it in order to get the whole rental value of the estate? The term 'sír' land was to some extent explained in the introductory sketch (see Vol. I. Chap. V. p. 166). I may take it for granted that the student knows that in each estate the proprietor (or the several co-parceners) hold certain lands as their home-farm, and pay no rent, or only a nominal rent, for it.

The simplest form of a joint-village-estate (such as those which form the bulk of the North-Western Provinces estates) would be, one in which every culturable acre paid a full rental, paid by the individual to the entire body. From the total so credited, after paying the Government revenue and village expenses, the balance or profit would be distributed to each co-proprietor according to his share. But this is rarely, if ever, the actual practice. Each sharer will have a certain area of *sír* or home-farm, for which (as I said) he pays nothing, or only a nominal rent, which is carried to the account. He may *also* have land in his cultivation, which is therefore called 'k͟hud-kásht' (cultivated by self, i.e. a proprietor's self), but it is not 'sír'; for it he pays rent to the joint-body, and this rent is carried to account. In making out a village-rental for assessment purposes, a rent-rate has of course to be thrown on the 'sír' as well as the rest, for Government does not profess to allow 'sír' to be revenue-free or to be excluded from the assets.

The question, then, first arises, What area ought to be called 'sír'—entitled to this consideration as distinguished from land which is merely *k͟hud-kásht*, cultivated by a pro-

Act XIX of 1873, sec. 3, cl. 5.

prietor who pays rent as tenant of the whole body? The Land-Revenue Act classes 'sír' as—

(*a*) Land so recorded at last Settlement and so continuously held since;

(*b*) land continuously cultivated by a proprietor—with his own stock, and by his own servants or hired labour—for twelve years;

(*c*) land recognized by village custom as the special holding of a co-sharer and treated as such in the distribution of profits and charges among the co-sharers [1].

§ 10. *Reduced Valuation allowed.*

At first when a rough valuation was made, and two-thirds, or 66 per cent., was taken as the Government Revenue, the proprietor's 'sír' was valued at full rates, as calculated for the lands held by tenants. And when the Government proportion was reduced to half assets, still for a time the practice was to assess sír at full proprietor's rates. But it was soon recognized as fair to make *some* allowance in putting a rental on 'sír' lands. Lands cultivated by proprietors are usually not fairly assessed at full tenant-rates. Though the land may be good, the North-Western Provinces landowners rarely belong to the more skilful agricultural castes, and their position or their caste may prevent their working with their own hands. They must then rely on hired labour. As a next step, therefore, the practice was, while rating such land at tenant-rates, to take existing rates without regarding the prospective enhancement which such rates would undergo. Then, still later, it was the rule to allow *sír* valuation rates to be 25 per cent. below the existing tenant-rates.

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[1] A very common form is, where a portion of the estate is let out to tenants, and the whole of the rest divided out among the proprietors as *sír*. Where the soil is good and valuable crops are raised, it often happens that the total amount of the rents (added to the nominal rents for the *sír*) covers the whole revenue demand; and then the proprietors (practically) have their own *sír*, free for themselves, having occasionally, of course, to make up a deficiency where the rents of the tenant land fail to come up to the necessary total at any particular harvest. In such a case, it would never do to represent the village rental-assets as only the income from the rented portion: to arrive at the 'assets' for assessment purposes, a rent-rate would be thrown or the 'sír' also; *only* it will be allowed at something less than the other land. The revenue will then be 50 per cent. of the *whole* rental so 'corrected.' There may be other corrections to make and other minor assets to add in; but the reader will at once see what I mean as regards the 'sír.'

This, however, was perhaps going too far the other way. And now that the revision rules have given great advantages to the landowner, since 1888 it has been ordered that the allowance should not exceed 10–15 per cent.

These changes will be made clear by a few figures. Suppose that the *sír* of an estate valued at a full (actual or existing) tenant-rate would come to R. 1000. Under the first system the assessing officer would not let it stand at R. 1000, but would raise it to say R. 1200—because he considered that the tenant-rents would certainly rise directly the Settlement was concluded; then, under the different rules, the *revenue* payable by the *sír* would be—

	R.
(1) Under ⅔ of the assets rule (⅔ of R. 1200)	800
(2) Under ½ assets rule (½ of R. 1200)	600
(3) Under same rule, but at rates excluding any prospective increase (½ of R. 1000)	500
(4) Under the rule allowing a reduction of 25 per cent., i.e. ½ of R. 1000 less 250 or 750	375

So great a reduction is obviously unnecessary, and therefore the modern rule is quite fair.

§ 11. *The First Rent-Rate System in the North-Western Provinces described.*

These preliminaries being mastered, we are now in a position to describe what I may call the first system of rent-rate valuation—a system which is still essentially followed (though with the important modification of neglecting prospective increase) in the later rules.

By the *Instructions for the Settlement of Sahāranpur and Gorakhpur*, issued in 1855 and 1856, the system originally prescribed in the *Directions* (and already alluded to) was materially changed. By this time cash-rents were general, and more certain information as to the rents actually paid could be obtained. Accordingly the Settlement Officer was now directed to ascertain the average rental-assets of each estate, and to fix the assessment with reference to a well-ascertained rental; and it was declared to be his business to approach as nearly as he could, for the groundwork of his proceedings, to the *real rental value of every property*[1].

Henceforward, then, it became necessary for the Settlement Officer to estimate the rental of each village or estate; and the assessment could no longer be based on pargana total-estimates framed on more or less general grounds.

I do not think it necessary to describe the rougher methods of valuation; I shall therefore come at once to the final development which the system received in the Farukhábád Settlement under Mr. (now Sir) C. A. Elliott. This was the foundation of the rules drawn up by the Board of Revenue in 1875, and was, till recently, the system followed in all the later Settlements. It may be described as the system of general or theoretical 'rent-rates.'

In valuing a village, the first and most useful guide would naturally be the actual rent-roll, which is furnished by the papers kept up by the patwárí. This rent-roll, or *jamabandí*, as it is called, required, under the most favourable conditions, to be corrected and supplemented before it could be deemed to show the true renting value of the village lands. The first and most important correction, viz. to affix a rental to 'sír' lands, has just been explained. The proprietors, again, might on their own account have allowed certain plots to be rent-free, from charitable motives or as payment for service. Again, the rents recorded as due from the tenants might be fraudulently understated, or they might be rack-rents, which could be collected only in exceptionally favourable years; or rents might be stated which, though possibly genuine, were excessively low compared with the rents paid for similar land in the neighbourhood, and the reason for the variation demanded explanation. In all these respects the rent-roll required to be scrutinised and 'corrected' by the local knowledge of the Settlement Officer before he could determine from it what would be a fair valuation of 'assets' for the village. If, however, the rents recorded in the village papers were found accurate for the tenant-rented land, and the Settlement Officer had before him accurate and detailed statistics for the last ten or twelve years of the cultivated area of the village, the character of the crops, the extent and the increase of irrigation, the number of the village cattle, the range of prices, the rent and revenue collections and coercive processes, and the like, he would have no difficulty in forming a sound judgment as to the true average rental, and in settling a fair land-revenue assessment on this basis. The modern Settlement Officer in the North-Western Provinces has all this information at hand owing to the close attention now paid to the preparation and checking of the annual village papers. But some years ago this was not the case. The patwárí's papers could not be relied on, nor were they prepared in such a form as to clearly exhibit the agricultural condition of the village during a series of years. The Settlement Officer was obliged to seek for other data to supplement, and often to supersede, the defective village papers. He had to employ deductive or comparative methods in order to estimate, in the absence of direct evidence, the probable fair letting-value of the village lands. In this way he was led to make a minute analysis of the various rates of rent which he found ordinarily paid for different classes of land throughout a homogeneous tract, and by a process of elimination of rents, in his opinion unduly high, or unduly low, he arrived at certain standard rates, which he then used to ascertain the renting capabilities of individual villages.

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[1] Vide *Instructions by the Sudder Board of Revenue, concerning the revision of Settlement in the Sahāranpur district*, paragraph 36. *Memorandum of instructions for the re-settlement of the Gorakhpur district*, paragraph 13, sect. 2. The Sahāranpur Instructions, it is true, repeat the warning of the *Directions* against minute inquiries as to the average net assets of villages but a letter explanatory of the instructions distinctly lays down the principle given in the text (see letter No. 1019A, of 11th July, 1856, to Secretary, Board of Revenue, printed in appendix No. XX to the 1858 edition of the *Directions to Settlement Officers*. It will be remembered that the second (1858) edition of the *Directions* was revised so as to include the Sahāranpur instructions.

§ 12. *Practical steps taken in determining Rent-rates.—Assessment Circles.*

I have already indicated that rent-rates have to be ascertained, not altogether separately for each estate, but the same rates (for the different soils) will ordinarily apply to as many villages as form a group or circle having similar general conditions or position. The first step is therefore to adopt 'assessment circles' for tracts having generally the same features. Thus we might have a circle of villages or moist alluvial ground, or along a canal[1]; a group of cultivation on sloping or broken ground along the edge of river valleys, and so forth. And the circles may also have reference to market and export facilities. Sometimes the circle would coincide with the old 'pargana' division; sometimes a pargana would require several circles.

§ 13. *Soil Classification.*

But every village in the circle will further require to have its soils classified, so that every field may be referred to a certain class which has an appropriate rent-rate calculated for it. In making the classification it has been more and more the rule to aim at breadth and simplicity, to refuse to multiply minute distinctions which do not really affect the letting value, and to have the soil classes as few as circumstances will allow. In only few Settlements do we find a very large number of classes and a formidable catalogue of differential soil-rates. Such cases have occurred, and are sometimes held up as if they characterized the system; but it is not so. The system of soil classification actually adopted in different districts naturally varied according to local circumstances. In some parts of the country, for example, it was found that variations in rates of actual rents depended chiefly on natural varieties of soil, so that loam, clay, sand, river alluvial, and so forth, had to be discriminated. Each kind of soil might be further subdivided into 'good,' 'bad,' 'best,' 'worst,' and so forth; or again be dealt with as 'irrigated' or 'unirrigated.' In other places, the value of land was found to be mainly influenced by its position with regard to the village site, and the facility for using manure; and what was called the 'conventional' or 'artificial' soil classification was here followed. As this latter method was closely connected with improvements introduced by Mr. (now Sir) C. A. Elliott, and was the one most generally employed, it is worth while to describe it a little more fully.

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[1] Uplands away from the rivers are always called 'bángar' and lowlands by the river 'khádir' the actually river-flooded or perpetually moist lands being 'tarái' or 'kachhar.'

The system was based on the fact that villages often exhibited certain zones of cultivation[1], the rental value of which was found to be different, irrespective of difference of natural advantages of soil.

The *homestead lands* in the immediate vicinity of the village site were found to be the best; here they receive much more care than lands further off, are more easily manured and better watered. They are also likely to be the best lands, because, naturally, when the village was founded, the best and most fertile soil would be brought first under cultivation, and the village residences would be built in convenient vicinity to such lands. The value, then, of all homestead land is in many cases quite independent of, and rises superior to, any differences in the soil, if indeed any such exist[1].

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[1] The zones are generally known as (1) goind.gonda, gauhán, or bára, i.e. the nearest to the village site, to which manure is carried with least cost; (2) 'mánjha,' or 'miyána,' the middle; and (3) the outlying lands ('barhá'). This arrangement is very generally observed in the central parts of the Doáb. But it is not, of course, absolute. For instance, in Muzaffarnagar, sugar-cane is cultivated wherever the soil suits and water is available throughout the villages, and here of course manure follows; so that the circles do not apply.

Next in value is the *middle zone*, and lowest of all is that consisting of *outlying lands* at a distance from the village site which are less carefully cultivated, and to which manure is not so easily carried.

These zones are called 'hár,' and it is the practice to recognize the homestead, middle, and outer hár. The villages often have recognized rates for land in each hár. As I said before, the homestead has a uniform and comparatively high rental value, irrespective of soil, and is sure to be irrigated; but in the middle and outer zones there will be different rental values within the zone, according to the soil and according to means of irrigation, so that soil classes are made use of within each hár if need be; and these soils, again, may be irrigated or unirrigated.

It is evident that, when an assessment was based on classified soils and rent-rates, accuracy in the areas of the different classes was of the utmost importance; for instance, if the area classified as homestead-lands in any village was made too large, or the outlying hár too small, it is clear that the valuation by rent-rates would be incorrect and useless. If, as was the original practice, the class of soil was merely entered against each field in the 'khasra' or village field register, it was impossible that the Settlement Officer could examine and classify every separate field himself; and, if the classification was made by subordinate agency, the number of entries which he could test and correct was very limited. Mr. Elliott introduced the simple plan of marking out the limits of the different blocks of soil, or hárs, on the village map. In some places the Settlement Officer was able to do this entirely by himself; if not, and the 'soil-maps' were prepared by subordinates to begin with, it was a comparatively easy matter to check and correct them when the village was inspected. By either method, the correctness of the soil classification was sufficiently ensured, and the valuation by rent-rates was made to rest on a safe foundation. In addition to this, such a plan of the village showing the patches of the different classes of land, or hárs, into which it is divided, greatly assisted the Settlement Officer in making the local inquiry into 'prevailing rates' which was enjoined upon him.

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[1] Some Settlement Officers have carried their soil classes even into the homestead 'hár'; but this has generally been considered unnecessary.

§ 14. *Village Inspection.*

The arrangement of circles, and classing of soils, necessitated careful local inspection; the rules framed accordingly directed that, when the Settlement measurements were sufficiently advanced, the Settlement Officer should proceed, during the field season, to inspect the villages and to mark out on his map the blocks or areas, in each village, of which the soil or advantages differed to such an extent as to warrant a separate classification, so that all the fields numbered in the map would come under one or other of the different classes. At the same time the Settlement Officer inquired into the prevailing rates of rent in each block, both by local inquiry and by reference to village records: he was to note any facts or local circumstances which might affect the rental value and the assessment of the village; and during this inspection he formed his conclusions as to the limits of the circles or groups of villages already alluded to.

§ 15. *'Prevailing' Rent-rates.*

Tables were next made out showing the area of each class of soil in each village, and the actual rents paid for that part of it which was held by tenants as far as these could be ascertained. Abnormally high or low rents being excluded, the rest were added up and divided by the total area of the soil class. The result gave an average rent-rate for that class of soil throughout the circle which was known as the 'prevailing' or ascertained rate.

§ 16. *Actual or 'Standard' Rent-rates.*

The next step was to frame rates for actual valuation, or standard rates, which often differed more or less from the 'prevailing rates.' The Settlement Officer here exercised his discretion, and used the knowledge of rent-rates gained at inspection, in picking out from among the varying rent-rates those which seemed most suitable[1]. Sometimes he took the rates of selected exemplar villages in preference to the arithmetical averages of the circle: and very commonly he went above the prevailing rates from a belief that they did not represent the full economic rent of the land, and that rent would be certainly raised by the landlords as soon as the revised land-revenue was fixed and a new Settlement lease for thirty years secured. This was sometimes called 'discounting prospective enhancements of rent.' On the other hand, he occasionally fixed his standard rates somewhat below the level of the prevailing rates, on the ground that special circumstances, such as liability to floods or drought, made the rent-roll and the rent-rates of the tract liable to great fluctuations.

But, in any case, the prevailing rates were taken as the *basis* of the rates assumed for assessment, and variation from them had to be explained and justified.

§ 17. *Village Note-books.*

The Settlement Officer kept a manuscript book during the progress of Settlement operations, in which he caused to be transcribed (in English) all agricultural statistics connected with each village or estate at the past and present Settlements. In this book the notes made at inspections regarding the soils and crops, means of irrigation, the caste and agricultural skill of the cultivators, were also entered, as well as any facts of importance relating to the revenue and general history of the village and the working of the past Settlement. It also contained the classification of soils, abstracts of the village rent-rolls, and the corrected rental; and, in short, included all the information bearing on the rental-value of the village which could be obtained from the records, or was supplied by the statistics of the survey, or which had been elicited by the personal inquiry made on the spot.

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[1] The later system in fact substituted an induction from particular rents for a deduction from general rent-rates. 'The crucial part of the operation was the selection of the specific rents which were to be used (as the basis of induction), and this, as well as the demarcation of the different classes of the soil, required the most minute personal inspection and inquiries in each village.' . . . (*Administration Report*, 1882-3, p. 44.)

§ 18. *Rent-rate Report.*

As soon as the rent-rates were calculated out, the rent-rate report was submitted to the Board of Revenue[1] through the usual channels. This report justified the rates, explained the basis on which they had been ascertained, and, in fact, gave a full description of the whole procedure, so as to satisfy the controlling authority of the correctness of the results arrived at.

§ 19. *Detailed Assessment on the basis of the Standard Rates.*

When the rent-rates had received sanction, the village *jama'*, or lump-sum assessment, had to be calculated.

The result of the processes described in the preceding paragraphs, was to give general rent-rates calculated to be suitable to each kind of soil (in the particular classification adopted) throughout the circle or the *pargana*. But in applying such rates to any particular village estate some special modification might be necessary, and when the rates so modified were added up, and the estate assets for rental thus ascertained, there might be other sources of profit (*sáir*), such as produce of fisheries, fruits, and jungle products to be taken into account. Thus a final lump-sum to be assessed on the *mahál* or estate was arrived at.

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[1] See Act XIX of 1873, sections 45 and 257, under which rules for preparing such reports are made.

§ 20. *Further Report and Announcement of the Assessment.*

It was therefore necessary that, besides the General Rent-rate Report already alluded to, a further report on any modified village rates, and on the village total assessments should be submitted to the Board of Revenue.

Act XIX of 1873, sec. 45.

The revenue-totals (*jama'*) are then announced at the *tahsil* or rural-treasury office on a day fixed by proclamation.

How the village total is apportioned among the co-sharers of the village or estate is a detail which I will explain afterwards.

§ 21. *The latest modification of the Rules.—Assessment on actual Rent-rates.*

The system described in the foregoing paragraphs was followed and gradually perfected in the North-Western Provinces between the years 1855 and 1878, during which the districts composing the Province came successively under Settlement. In the absence of accurate village statistics, it was the only practicable expedient by which the rental assets of an estate, and the land-revenue reasonably assessable on it, could be estimated. It was, however, productive of many inconveniences, and not unseldom resulted in serious mistakes. In the first place, the previously existing patwárís' maps were so inaccurate, and had originally been constructed on such defective methods, that a complete field-to-field survey was required before the Settlement Officer could enter on the work of revising the land assessment. With the new maps, an entirely new set of village records had to be prepared, and the rights of every individual cultivator investigated and decided. The Settlement Officer was also obliged to adjudicate in a summary manner on all possessory claims preferred to estates or shares in estates, to groves, houses, manorial dues[1], and the like. The Settlement Officer was thus both an assessing officer, and an officer charged with the complete resurvey of the district, and construction *de novo* of the authoritative village records of every class of agricultural rights. Under such conditions a Settlement could not be otherwise than an excessively costly and protracted operation. Some districts have been ten years or more under Settlement, and throughout the term agriculture was perhaps depressed, and improvements discouraged. What was more, the result of so much elaborate care and toil was not always to bring out an assessment that was satisfactory in working. The vicissitudes of an Indian climate, and of the physical conditions generally, are such that the very best theoretical assessments do not result in an *equal incidence* in all cases. One estate regards itself as having got off well, and the next as having fared badly. In fact, while recognizing the care and skill brought to the difficult task of fixing rent-rates, the doubt necessarily arises, must we not now admit that a perfectly satisfactory soil valuation for assessment purposes is impossible,—and that therefore we *must* in future be content with something much simpler? Whatever may be thought on this point, it was undeniably a desideratum on general grounds, to secure the districts that had once been accurately surveyed, and had good records and complete Settlement details, from the outlay and trouble involved in a repetition of the whole Settlement process at the end of each thirty years.

The correspondence on the method for attaining this end has been discussed, and its results given, in my general chapter on Revenue Systems. (Vol. I. Chap. V, p. 355.)

The first essential is to keep the maps and records, once made, accurately up to date, and to secure accurate village statistics. With this primary object the Department of

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[1] This term—though inaccurate enough in itself—has become popular in Reports and Revenue books, to indicate the miscellaneous items such as fees on marriages, house-fees or other petty cesses and dues levied by the proprietary body, or some of them, on the non-proprietors in a village.

Land Records and Agriculture was founded in 1875. It began at once with training and supervising the village and *tahsíl* recording agency (patwárís and kánúngos). The measures taken have proved so far effectual that in all districts in which the survey of the previous Settlement has been carefully made, it will be possible to dispense with a new survey, and to accept the existing record of rights, subject to such minor corrections as may be made in the course of a year by a small special establishment working in conjunction with the village patwárís and kánúngos of circles. The Settlement Officer will thus be enabled to confine his attention to re-assessment, and being relieved of the mass of judicial and semi-judicial work which used to occupy the time of his predecessor, and being also supplied with full and accurate statistical information regarding the economic and agricultural condition of each estate for the last ten or twelve years, will be able to complete the revision of the land assessment of a district within three years. Along with this change in the duties of the Settlement Officer, and this improvement in the statistical materials for his guidance, the principles on which the revision of the land-assessment will in future proceed have been recently re-examined, and in some important respects modified.

§ 22. *Estates are in different stages of development; this affects the principle, or degree of simplicity of the procedure for revision.*

The first thing to do is to determine in what condition, as regards its Settlement data, a district coming up for re-settlement, is. I have already alluded to the orders of 1881, which require special sanction before any district is put under revision of Settlement at all. But further, it is intended that estates shall be classified, so that in some, at least, which are fully developed, and where the incidence of the revenue is fairly equal, the process of re-assessment shall be reduced to the simplest possible process of revision by a percentage enhancement of existing rates, without any new inquiry into rental assets whatever.

In *all* estates the harassing operations of re-survey and classification will, as far as possible, be dispensed with: and it is agreed that enhancements of assessments should be based mainly on considerations of general increase in the value of land and its produce. Further, that the assessment of an estate should not be revised *merely* with the view of equalizing its incidence with that of other estates. And lastly, that specific works of improvement made by the land-holders themselves should, as far as possible, be encouraged, by exempting them from being a direct cause of enhancement of revenue for a suitable period of years[1]. Improvements made at the cost of the State, and also, to some extent, increase of the area under cultivation, would constitute a proper ground for enhancement.

In the case of estates which are ready for the simplest kind of revision, it may be possible to make the next Settlement by applying some general rate of enhancement; in which case, should any proprietor object to the result, he will be given the option of having the estate valued on the detailed system. As yet, however, this method of a 'rateable enhancement' has not been applied in any case, as the summary inquiry through the Department of Land Records and Agriculture, which the rules require to be made whenever a Settlement approaches expiration, has hitherto invariably shown that the incidence of the expiring assessments is very uneven. It is more important, therefore, for us to consider the simplified rules which are actually capable of use and will be followed in most of the revisions now falling due.

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[1] It should be borne in mind that the Land-Revenue being the substitute or equivalent for a share in the produce, it must, in any case, really include a charge on improvements—for instance, on the continued working and gradual amelioration of the soil, which are just as much 'improvements' as the well sunk by a rich man. There is no more reason why one should be protected than the other. It is very easy to make use of well-sounding, but rather misleading phrases about 'taxing capital laid out in improving the soil' and such like. The really practical plan is to *encourage* the repetition of such works, by granting to them a definite protection for a term of years. This encouragement is only practicable when the work is a definite and tangible one, capable of record and estimate of direct outlay.

§ 23. *Rules under the Revenue Act.*

Speaking generally, the present rules modify the former rent-rate system, by substituting an inquiry into the *actual rental* received by the landlord in place of any method of calculating what rates ought to be or probably would be attained in the years immediately following the Settlement. In a word, we find out (now that we have the means of doing so) what rents really are, not what they ought to be, or what it is supposed they would be. No addition is made on account of an expected rise in rents or increase of cultivation. The primary duty of the Settlement Officer is to ascertain the amount of the actual rent-roll of each estate. General rent-rates of an abstract character are only to be employed as subsidiary tests of the genuine character of the village rent-roll, or to supply rates for lands that pay no actual rent: they are not to be made the basis of the assessment.

Soils are still classified, and rent-rates framed for each class, from personal inquiry and examination of records; the classification is made as broad and simple as possible, resting on the general distinctions recognized by the people as influencing rents: a minute classification of soils is discouraged, and the standard rent-rates are required to correspond as closely as possible with the rates actually and most commonly paid for the different classes of soil, instead of being, as they sometimes were, more of the nature of average rates obtained by calculation [1].

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[1] Rules under section 39, Act XIX of 1873, prescribing the mode in which the revenue demand is to be assessed were framed by the Local Government in 1886. These rules may be subject to modification as further experience is gained; but they show clearly the principles of the new method, and are, therefore, printed in full as an *Appendix* to this chapter. Rules for the re-settlement of estates so situated as regards their stage of development, and as regards the completeness of information and proper incidence of the revenue assessment, that the 'rateable enhancement' method can be applied, have not yet been framed, nor could they be successfully, till actual re-assessments have been proposed on the simplified principles.

The Settlement Officer has, as before, to inspect every village, in order to satisfy himself that the acknowledged and recorded rents are, or are not, the rents actually paid; at the same time he inquires into the rates, and, after he has seen a sufficient number of villages (which are already grouped into circles), he selects his standard rent-rates.

A valuation is made of each village by applying the standard rent-rates to the different classes of soil; but this valuation is only made use of for assessment in certain cases: it is chiefly intended to assist the Settlement Officer in comparing one village with another, and in judging whether the rents recorded in the official rent-roll of a particular village are genuine and sufficient. The new rules equally with the older ones, speak of the assessment being ordinarily made on the 'corrected rental,' because a calculation has still to be made in order to apply a proper rate to lands not paying rent. But, as has been already explained, a 'corrected' rental, obtained merely by valuing the whole cultivated area at the average rate paid for that part of it which is held by tenants, is not always a fair valuation; and in some cases, as, for instance, when all the land is cultivated by proprietors, the means of making such a valuation are wanting. The Settlement Officer is therefore allowed to correct the rental in other ways. In a village in which there is very little land held by tenants, or none at all, or where the classes of soil cultivated by proprietors, or held at nominal or grain-rents, differ materially from the rest, the rental may be corrected by applying to the area in question the soil-rates of the circle, or the rates paid for similar land in a neighbouring village; allowance will be made, in the case of produce-rents, for the uncertainty and lowness of the receipts, as compared with those from lands of similar quality for which money-rents are paid.

Land held by proprietors[1] as home-farm is allowed, as already stated, a reduced rate of valuation. The allowance is now, under orders issued in 1888, from ten to fifteen per cent. below full actual, or existing rent-rates on tenant lands. In short, while it is the principle of the rules to deal with actual facts, and not with rents as it is supposed they may become, every care is taken to let the rental be a real actual rental, and not one misrepresented by interested persons, or one which really excludes much land from being valued at all.

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[1] That part which is their legal 'sir,' as defined by clause 5, section 3, Act XIX of 1873, *minus* whatever portion of it has been sub-let.

The Settlement Officer has seen the village, he has compared it with other similar villages in the circle, and has valued it by the standard rates. He can judge whether the admitted rents are those which are actually paid or not: he can decide, from his inspection and from tables showing the soil classification, which is the fairest method of correcting the rental. If the admitted rents are the real rents and are not seriously inadequate, he is bound to assess on the corrected rental. Even if, through the careless or easy management of the proprietor, the rents paid are considerably lower than those prevalent in the circle for similar land, the rent-roll is still taken as the basis of assessment, if it allows of a reasonable increase on the demand of the expiring Settlement.

On the other hand, it may be found that the rents have been fraudulently understated, or that they are rack-rents on which it would not be safe or fair to assess; or an examination of the rent-rolls of previous years may show that the rent-roll now put forward is considerably higher than the average assets of the village. In such cases, the jamabandí may be set aside, and the village assessed, either on the valuation by the circle rates, or at rates which have been found to be paid by tenants for similar land in other villages in the neighbourhood; or, when the assets have been concealed, by the rates actually paid in the village for the different classes of soil, if these rates can be discovered.

Receipts from fisheries or wild produce may be added to the corrected rental; and, as already remarked, the Settlement Officer is allowed to fix the Government share at from 45 to 55 per cent. of the result; but, if the proposed revenue exceeds 55 or falls below 45 per cent., the special sanction of the Board has to be obtained.

When the assessment of the tract has been completed, the village *jama's* are reported to the Board of Revenue (through the Commissioner) for sanction. The report at the same time justifies the standard rates, and explains the grounds on which they were selected: a separate rent-rate report is not required.

It should be noticed, in conclusion, that if any tracts have to be valued, for which grain-rents are still paid, money-rates are calculated by comparison[1] with neighbouring lands, nearly similar, which pay in cash.

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[1] Rule 8 (4) of the rules for assessment, already alluded to, directs that where grain-rents appear, the position and character of the fields must be looked to. It may be found that, because of the outlying and inferior character of the fields, a grain-rent, i.e. a share of the actual produce, whatever it may be at any given harvest, is taken, because of the uncertainty which would render tenants unwilling to bind themselves for a yearly cash-rent. Or it may be, that the land is liable to flood, or, lying on the outskirts of jungle-land, to the ravages of wild animals. Here it will not always be easy to apply standard cash-rates or cash rent-rates paid for similar land in the neighbourhood; due allowance must be made for precariousness of crop or inferiority of yield. As an example from one of the late Settlements, I noticed that the *Settlement Report of Bijnor* (1864-74) describes the district (p. 87) as still subject to corn-rents, either collected by division of the grain ('batái'), or by an estimate of the produce before the crop is reaped (locally called ''amaldari'). Cash-rents were only common (called 'zabti') on certain *kinds of crop*, not on lands. The corn-rent was of a share, half or (rarely) one-fourth according to locality, and after deducting a preliminary 'ploughman's allowance' called 'halyág'—about one-seventh of the whole. In this district the method of obtaining the assessment is thus described in the Government orders on the Settlement. The Settlement Officer 'first ascertained a general average rent per acre of cultivated land from an analysis of all money-leases of villages and other sources. He also prepared tables of the estimated outturn of each class of crops from each class of soil, and turned the landlord's share (of this outturn) into money. . . . An estimate of the rental was also made from the patwári's papers (which should represent the actuals), the grain-rents being turned into money equivalent, and another estimate from all money-leases granted within seven years.' These were corrected by certain additions, and thus there were so many standards or aids for comparison of the rates assumed for assessment purposes. The crop-rates were the actual basis of assessment; they were made out partly on 'zabti' (money-rents) paid, and partly, by valuing, at a ten years' average value, the grain share of the owner, taken as 17¼ to 16¾ *seers* per *maund* of outturn.

§ 24. *Cesses.*

This is a convenient opportunity to mention the rates that are levied along with, or with some percentage reference to, the land-revenue.

The ordinary cesses formerly amounted to 10 per cent., and were devoted to the support of schools and roads in the district. In 1878, by a special Act of the Legislature, an additional 2 per cent. was levied to defray the expenditure incurred and to be incurred for the relief of famine, or in connection with the insurance of districts against famine[1].

A very inconsiderable sum[2] is also levied on account of canal-irrigation advantages, i.e. not the price of the water consumed (which is separate), but a small payment, known under the still existing Canal law of 1873 as the 'owner's rate' (or as it used to be called 'Water-advantage rate'). This meant that when the selling or letting value of any land had been increased by the canal construction, and the assessment as imposed at Settlement did not take account of this, a rate was imposed on the owner to make up.

§ 25. *Distribution of Revenue over the Shares in Estates.*

The revenue on each estate is announced in the form of one lump sum, although that sum is arrived at by calculating rates for each acre, and then modifying the total. The village body (in all cases where the estate is owned by a body of coparceners) has then the duty of settling, according to the custom and constitution of the village, what portion of the total each sharer is primarily liable for. This process, effected by the aid of a village committee, or 'panchâyat,' is called the 'báchh.' The Settlement Officer aids and advises, but does not enforce any particular distribution. The whole matter is one of tenure and custom, and, in fact, the student will find more about it in the chapter on *Tenures* which follows. It is, of course, necessary that each sharer should know what he has to pay, as the joint and several liability of the whole group for the whole revenue is a thing in the background, rarely enforced, and liable to be put an end to by partition at any moment.

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[1] See explanation of the so-called 'famine insurance fund' in the General Sketch, Vol. I. Chap. V.

[2] About 1½ lakhs of rupees in the year.

§ 26. *Adjustment of Tenants' Rents consequent on Assessment.*

In the Settlement made on the earlier rule of ideal rents, and, indeed, on any rule, when the rates are enhanced, the success of the assessment will depend a good deal on the ability of the proprietary class to adjust their rents with the tenants. As a matter of principle the North-Western law has found it possible to leave a great deal of the rent-adjustment to contract, and to the good sense of the landlords, under control of the Courts and of the requirements of the Tenant law. But with the care that the Settlement system takes in the matter of securing and recording the rights of the tenantry, it is obvious that the adjustment of rents after the Settlement '*jama*'' or total revenue has been announced is a matter requiring unusual attention. Mr. Fuller, of the Central Provinces, writes:—

> 'The revenue was assessed on a rental which was assumed to be a fair one at the time of Settlement, or within a reasonable period after its conclusion. In calculating it, allowance was made for enhancement, which could reasonably be effected at the time the new assessment was assumed . . . The adjustment of rents, after the announcement of the revenue, formed, in most Settlements, an essential part of the proceedings. In the North-Western Provinces it has ordinarily been the practice to effect this, as far as possible, through the people themselves,—that is to say, the proprietors and tenants were called together, the gross amount of the rental which the Settlement Officer considered a fair average for the period of Settlement was announced, and they were asked to raise the existing rental towards this amount by distributing among themselves

all or a part of the difference between the rental and the desired rental. In theory, then, the Settlement Officer, as an assessing officer, did not go below the village; he left it to the people to settle the rentals which would be payable on the different holdings, in order to bring out the total rental. This system of procedure seldom resulted in the production of a revised rental which exactly corresponded with the gross rental as fixed by the Settlement Officer. Where the tenants were strong, and could resist enhancement, the landlord was forced to compromise with them for less than the full rental assessed. On the other hand, when the landlord was powerful, he would often obtain a rent considerably above the rental assumed. It is owing to this that the actual incidence of the revenue on the "*adjusted assets*" (i. e. of the rentals as they really come out when the landlord and tenants have done their best) varies so greatly in different villages.'

The Settlement Officer might uniformly assess at half the assumed rental (or assumed assets), but the proportion actually taken, depended, of course, on the extent to which the adjusted rental corresponded to that on which the Government half was calculated.

'It should be added that, although in theory the adjustment of rents is left to the people, yet, as a matter of fact, the Settlement Officer has commonly interfered to assist them, and has brought his influence and authority to bear in overcoming the resistance of individual tenants to a fair enhancement, and in keeping the demands of the proprietors within moderate limits.'

§ 27. *Results of Settlement.*

In the North-Western Provinces the Revenue stood thus in 1882-83:—

	R.
Permanently settled	47,66,000
Temporarily settled	3,81,56,000
Total . .	4,29,22,000

It now remains to be seen how far the recent discussion of principles will result in simplifying and minimizing the work of the revision (when it falls due) of the last (thirty years) Settlements. Survey and record will not, as a rule, have to be done over again; but it has already been determined that a further assessment of Gorakhpur and Jaláun are necessary[1], and so as fresh revisions become due, instructions will be issued for each district on its merits.

§ 28. *Examples of Modern Assessments.*

To this general description of the principles of assessment I may now append a series of notes taken from the districts most lately settled.

These examples show different parts of the province—Bundélkhand, with its special soils, often fertile but uncertain in their yield from failure of rain, &c., and liable to the ravages of the 'Káṅs' grass (*Saccharum spontaneum, Linn.*), the Doáb, the Jamna districts, and those of Rohilkhand.

§ 29. *The Jamna Districts—Agra.*

The *Agra Report* furnishes us with several points of illustration. First, as to the area called 'irrigated.' Of a total cultivated area of 840,158 acres 462,031 are 'irrigated.' But this includes land that is '*irrigable*,' and has been watered within the last few years. In this district the rate of rent depends more on the land being irrigable, and less on its being actually irrigated. All the fields of a tenant may be within easy reach of his well, but he has neither time nor cattle to give them water. He concentrates his attention on the crop which is most profitable and most needs the water. To use Mr. Evans' illustration, a single bucket well, in the Agra district, *protects* 5 acres, but may actually water, in any one year, only 2·3 acres.

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[1] For Gorakhpur the original field maps of the last Settlement—one of the first undertaken—were bad; and it is understood that Gorakhpur will be re-surveyed. As to assessment, the orders state (and this gives a good example of the new method) that the existing rent-roll warrants an increase in the revenue. The district, under its existing conditions, is one favourable to the introduction of a system of assessment 'the simplest compatible with such a general check of the recorded rental (list of rents actually paid in the estate) as will effectually detect fraudulent concealment of assets to any material extent, and with the discovery and rectification of rents that may have been let down much below the prevailing standard designedly or carelessly or without proper reason.' In order to obtain a test, the soil classification by natural varieties is abandoned; the three simple zones of (Goind) near the village, middle land, and outlying, are accepted; and standard rates (derived from a careful selection of rent-rates actually paid) are made out. Then the recorded rental is taken and supplemented by putting on rents for 'sir,' rent-free land, &c. If it then agrees with the result that the standard rates would give, the corrected recorded rental is the basis of assessment. If not, further inquiry is called for. The further inquiry cannot be defined by rule; it will depend on the extent of the divergence. The orders, however, indicate certain general principles to be attended to.

The Settlement of 1840 had been at first severe but became easy: the expiring demand was R. 16,29,344, and the revision increased it (11 per cent.) to R. 18,07,660. The old Settlement being two-thirds of the rental, the rental may be taken as R. 24,44,012. Under the present Settlement inquiries it came out as R. 36,15,320. But to show how little the patwárís' *nikási* (jamabandí) or annual rent-rolls could then be relied on, those records only made out the present rents as R. 29,57,184. But then nearly one-fourth of the whole cultivated area is held by proprietors as 'sír.' Rents were very much 'artificially stereotyped' during the last Settlement. Of the whole area 36 per cent. was cultivated by proprietors, 51 per cent. by occupancy tenants, and 11 per cent. by tenants-at-will.

In the Settlement the 'zones' could be used; the home circle and the middle circle were merely classed into irrigated and dry; the 'outlying' was classed according to natural soils, &c.

Everywhere it was found that the tenants paid lump-rents for the whole holding, not specific rates *per acre*: but sometimes there was only one class of soil in the holding, and then the rate could be taken out; in other cases, 'a rough rate, for, at any rate, the larger soil-classes is known.' Average rates were thus ascertained without difficulty as a standard. 'Many circumstances,' says Mr. Evans, 'affect the standard of rents paid or payable in a village, and for these allowance has to be made by modifying the pargana (or standard) soil-rate. Rents will be lower, and lower rates must be assessed, in villages where the lands are inferior owing to some local or accidental peculiarity; where population is scanty or the market very distant; where the tenants are composed of the less industrious castes who cultivate, or where, as is often the case, they are chiefly old proprietors (or their descendants) who have lost their proprietary rights but have been allowed to cultivate at very lenient rates.'

§ 30. *Muttra.*

From the *Muttra Settlement Report Review* the principle there adopted appears:—

'The problem was to ascertain, for each description of land, the rate of rent which was held to be a fair one and to govern the average *bonâ fide* transactions between landlord and tenant. To ascertain this, it was necessary to exclude from the analysis of rentals all instances in which the rent was obviously too low or too high. This process of elimination is an extremely delicate one, and for the accuracy with which it was performed the assessing officer was solely responsible. The rent-rates . . . . do not take into consideration any anticipated rise in the standard of rent during the duration of the Settlement, although they allow for probable enhancements of unduly low rents. This principle of assessment has been repeatedly approved by Government, and is the only safe basis for a Settlement[1].'

In order to have standard rent-rates by which to correct estate rentals, the soil classification adopted was the *bára*, or home-lands, where manure and irrigation obliterate natural variations in the soil; and the *barhá* or outlying lands. The home-lands were in some cases subdivided into those close by the villages and those (mánjha) further off. These, again, were subdivided into *irrigated* and *unirrigated*, and again into various sub-classes. Thus a great variety of rent-rates were obtained whereby to test the rental shown by the records as actually in use in the village.

§ 31. *Rohilkhand Districts.*

In MURÁDÁBÁD—one of the districts of Rohilkhand, immediately to the east of the Upper Doáb—it is stated that, in 1818, cash-rents were unknown: but since the ninth Settlement in 1840, large areas of corn-rent land had by consent been changed to cash-paying tenancies. Produce-rents, however, have their advantages in tracts where the crops are precarious 'supplying a sliding scale by which rent bears a proportion to the outturn of the crop, so that in bad years the tenant pays nothing if his crop fails.'

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[1] It will be observed that this was written of a modern Settlement long before the latest rules were issued.

In this district the assessment was on the modern principle —(1) the determination and classification of soils; (2) inquiry into and calculation of standard rent-rates for each soil (and which, on a review of the conditions, appeared in the judgment of a locally experienced officer, to represent rates that are 'standard' for all the classes of land similarly conditioned), and then the application of these standard rates to the area of the soils, thus obtaining the full rental assets; (3) determining on the basis of the authorized percentage, what the Government revenue is to be.

The primary classes of soil were here what they so often are —*dúmat* or loam; *matiyár*, clay, and *bhúr*, sandy soil. In this district irrigated and unirrigated were *not* distinguished in the classes, nor were the circles (*hár*) according to distance from the village or hamlet taken notice of. The primary classes of soil were further subdivided according to variety and quality. Very large numbers of soils were separately named, but all of them did not appear to be made use of.

§ 32. *Sháhjahánpur.*

The *Report on Sháhjahánpur* deals with a district where 'irrigation for crops in ordinary years is not a necessity,' but 77½ per cent. of the cultivated area is either irrigable or, from its low-lying position, never needs irrigation.

Though prices (wheat being the important crop) had risen 73 per cent., the higher rents had not altered, and the lower ones were slightly raised:—'there is no adequate relation between the existing rent and the present value of the produce as compared with the relations existing thirty years ago.' The aim of the assessing officer was to find what present full rents and rates actually were, and to what extent they were rising, and what may be fairly assumed as the level they would reach in the next two or three years,—i.e. when the effect of the new Settlement should have become realised[1]. The reasons for fixing the revenue on each estate were written out 'in the manner of a judicial decree.' When there was much waste beyond what was required for pasturage, an increase was made on the gross rental to allow for what was sure to be soon reclaimed. In some places this was not done, but an addition was made for the considerable 'sáir' income derived from 'púla' (thatching-grass). Certain castes actually pay lower rents than others, and this fact was allowed for. This was a district where sometimes it was needed to assess below 50 per cent., and where sometimes, for reasons given, a proportion of 54·9 per cent. was still a reasonable assessment; rents could and would easily be raised to the amount assumed as the 'potential assets.' Tables were made showing, besides the recorded rental (corrected), the estimated actual rental, or rental from soil-rates assumed to be true, and these added to by allowance for increase of cultivation (forming the 'potential assets').

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[1] Note here the principle of the day-rents as they ought to be or (it was believed) probably would be.

As regards the *soils*, it may be mentioned that circles in which manure is or is not used are not to be found. Sugar-cane is cultivated wherever land is suitable, and manure is taken to it. In some parts, circles in which the same rents prevailed naturally, as the 'jhábar-hár,' the bhúr-hár, and so forth, were found. In one pargana we find a circle made because of the great inferiority caused by a hard clay,—a peculiar subsoil which prevented wells being used, and large areas of jungle of the *Butea frondosa*; another called 'tarái' because of its moist and low-lying character; all soils, whether clay, loam, or sand, were good, and did not require irrigation, and the place being intersected by old river-beds called 'dubrí,' in which the soil was always moist and fertile.

§ 33. *Fatihpur.*

FATIHPUR is a Doáb district, lying between Bundélkhand and the south of Oudh, well wooded with groves, and about 47 per cent. of the cultivated area irrigable.

Here 'hárs' or circles at distances from the village-residence were made some, but not much, use of. But the three ordinary ones—*gauhán*, *mánjha*, and *barhá*—were not enough: *mánjha* hardly existed, and there was a good deal of rice cultivation which made a separate circle, and there were marked varieties in natural soils. We find mention of the dúmat, 'bhúr,' and 'matyár' as usual, and tarái or 'kachhar'—moist soils by the river; and also in some places the Bundélkhand soils appear—viz., 'kábar,' or blackish clay, and 'parwá,' a yellowish loamy soil.

The soils had here to be divided further, according as they were irrigated or dry, manured or not. Average 'true' rent-rates for each class were fixed by inquiry and analysis of recorded rent-rolls and leases. In each pargana, representative villages were selected, 'and the inductions formed after an examination of their statistics were the most valuable.' In some places actually paid rents could be accepted; in others, which were obviously under-rented, increased rates were put down, but not 'above those frequently paid in estates where the owners, without rack-renting, tried to obtain the most out of their lands.' The object was to obtain not an arithmetical average, but a true prevailing rate. As a fact the rents *paid* were unequal, because they followed the old revenue which was unequally assessed. This Settlement, however, did not show that the Settlement Officer proceeded to adjust and equalize rents as might have been expected.

§ 34. *Cawnpore.*

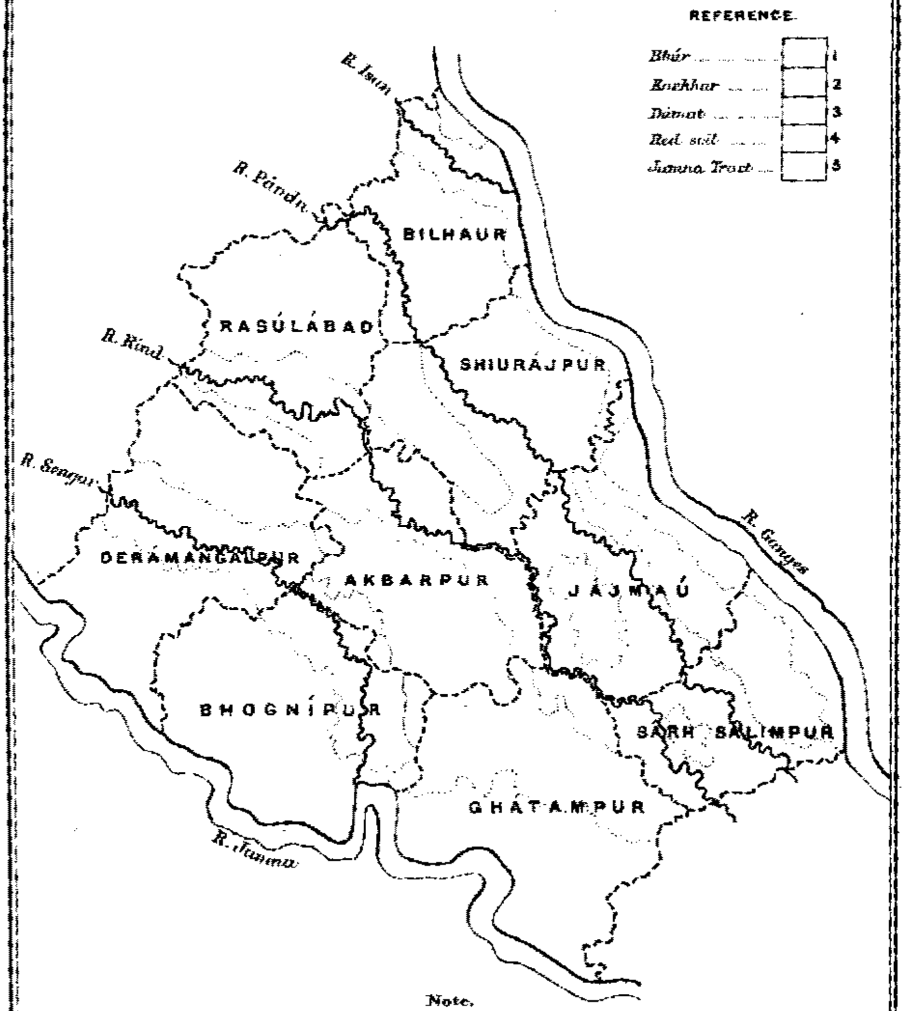
A better example of a modern Settlement is afforded by the next district, CAWNPORE. Here we find the village map made use of to indicate, by the use of certain conventional marks, the drainage lines, the varieties of soil, &c., while the rent of each 'number' or field on the map is marked in as ascertained from the village rent-rolls, or by inquiry; and most careful was the questioning by which the rents marked were ascertained. The same inspection enabled the limits of the different soil-tracts to be marked. Opposite is given a sketch showing how this came out. It will give the student a general idea how soils may be distributed. There are many districts, however, in which the changes are much more numerous than this. In some Settlements I notice that a trained establishment did the soil classification and marking out of the 'hárs.' Here the Settlement Officers did it themselves. The maps were made over to the office where the statistics are compiled; the fields of each tract were classified (according to the marks employed), in tables, with the rent-rates attached. Thus, for each village, the completed statistical information would be

MAP I.

SOILS CLASSIFIED BY SETTLEMENT OFFICERS FOR PURPOSES OF ASSESSMENT.

(NATURAL DIVISIONS OF SOILS)

Scale: 15 Miles to an Inch.


REFERENCE.
Bhúr 1
Kachhar 2
Dúmat 3
Red soil 4
Jamna Tract 5
R. Isan
R. Pándu
R. Rind
R. Sengar
R. Ganges
R. Jamna
BILHAUR
RASÚLABAD
SHIURAJPUR
DERAMANGALPUR
AKBARPUR
JAJMAÚ
BHOGNÍPUR
SARH SALIMPUR
GHATAMPUR

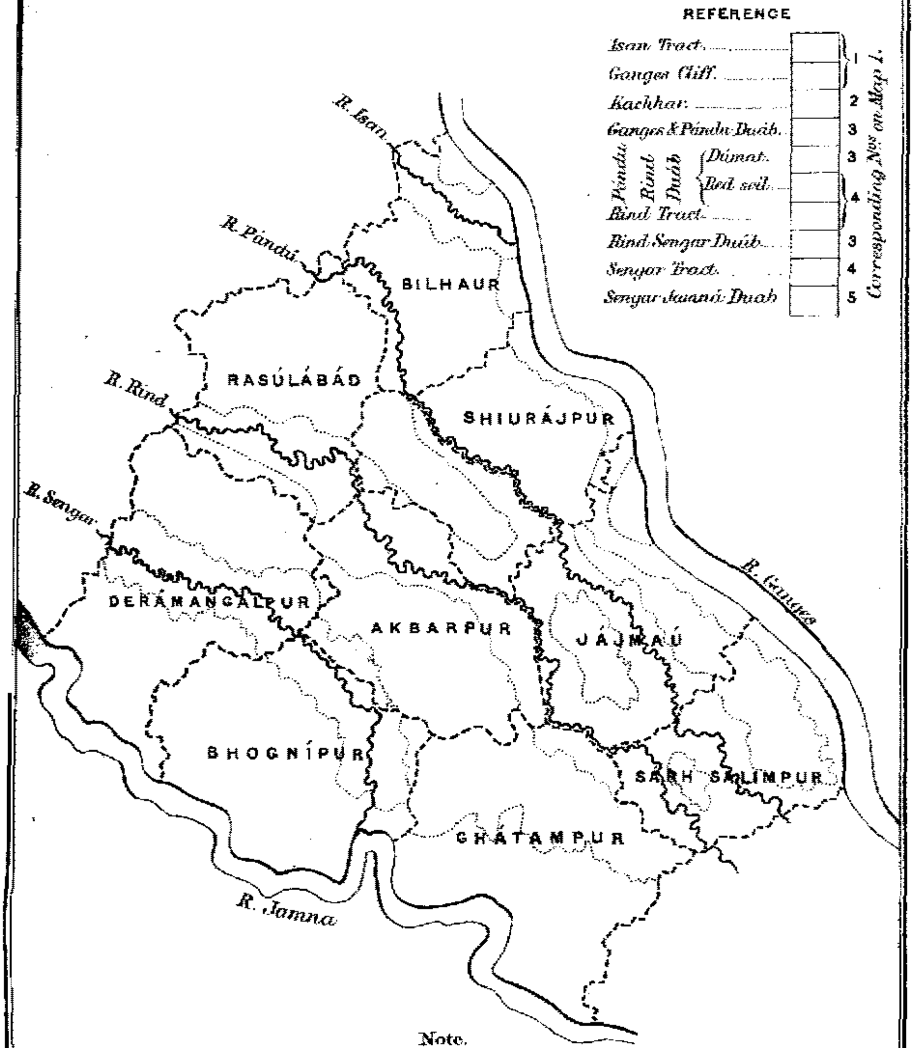
Note.

Observe the Sandy strip (Bhúr) along the Ganges, and the "Red soil" on both sides of the minor streams. The uplands between are "Dúmat." On the Jamna bank is a tract of peculiar broken soil.

MAP II.

TRACTS AS FURTHER CLASSIFIED BY SETTLEMENT OFFICERS FOR PURPOSES OF ASSESSMENT.

Scale: 15 Miles to an Inch.


REFERENCE
Isan Tract
Ganges Cliff
Kachhar
Ganges & Pándu Duáb
Pándu Rind Duáb
Dúmat
Red soil
Rind Tract
Rind Sengar Duáb
Sengar Tract
Sengar Jamná Duab
1
2
3
3
4
3
4
5
Corresponding Nos. on Map I.
R. Isan
R. Pándú
R. Rind
R. Sengar
R. Ganges
R. Jamna
BILHAUR
RASÚLÁBÁD
SHIURÁJPUR
DERÁMANGALPUR
AKBARPUR
JÁJMAU
BHOGNÍPUR
SARH SALIMPUR
GHÁTAMPUR

Note.

Comparing this with Map I, it is found that the "Bhur" along the Ganges was in need of further subdivision for assessment purposes. The "Red soil" along two of the minor rivers is retained, but that along the Sengar is put into a separate class. The "Dúmat" lying between the rivers, is grouped into three classes, the "Ganges" dúmat, the Ordinary dúmat, and the "Rind-Sengar" dúmat: the Jamna tract is retained unaltered.

Baden Powell's Land Revenue Systems of British India. Oxford University Press.

got ready, including statistics of caste, population, and irrigation, and the list of soils with rates: and when a number of these were collected for a whole pargana they would be compared together and analysed, so that the rates of one village would be compared and rectified by aid of another. Having thus obtained *standard* rent-rates, they were reported and sanctioned, and then applied to the villages or estates; and in doing so, allowance was made for other matters besides physical conditions of soil and irrigability—e.g. for caste, or the fact of the tenants being old ex-proprietors.

There is no doubt that this minute classification of every field under so many shades of difference must be of great use to the rent-courts when discussing cases of enhancement. But whether it is not an over-refinement for purposes of assessment may well be questioned. The sketches annexed show that Cawnpore has, besides the Ganges on the north and the Jamná on the south, some intermediate streams; so that, after taking the peculiar soils forming strip-tracts close along the rivers, the natural divisions of soil follow the 'dúáb' or spaces between two of the rivers.

§ 35. *Bánda.*

Here is another example from BÁNDA, a district which was greatly over-assessed in former days, and a partial description of which may be found in Mr. Patterson's report on the Karwí subdivision. The peculiarity here is that the tenants largely pay not by rates according to the value of the different soils, but lump-rents (tháúsa) for the entire holding. First, the villages were classified into *circles* according to the general character of their position and soil. Next, the soils were rather minutely classified according to natural varieties and artificial alterations made by manure and irrigation. Several tables of rent were then made out: one was the average rate of rents actually paid within the village and circle: the next showed what the rental would come to if certain rents actually paid and accepted as representative rates were applied to all land of the same quality and description in the circle or village. On comparing the results, 'suitable rent-rates' were drawn out for the village. The rentals obtained are now shown:—

	R.
(1) According to a 'corrected' actual rental	15,26,819
(2) By applying ascertained (representative) rates of each village to the soil areas of the villages	15,05,966
(3) By applying ascertained rates to the soil areas of the circle	15,11,722
(4) By assumed rates for the circle	14,57,200
(5) By suitable rates for each village	14,33,887

As to the *area*, to which the rental was to be applied, allowance had to be made for what probably would be cultivated, beyond what was actually so[1]; and at the same time to make allowance for *fallow*. A fair average area of cultivation was ascertained, and the assessment applied to that.

In the Settlement it was noted that the status, holding, and rent of each cultivator (i.e. tenant) was ascertained or decided, or 'fair' rents were fixed for each tenant with rights of occupancy, and in some cases with the consent of the proprietors, for 'tenants-at-will.' And it was remarked that 'the readjustment of the rents of the protected tenantry, where they do not correspond with the Settlement Officer's assumed rates, is now recognized as the indispensable accompaniment of a revised assessment, and the time has passed when assessing officers will be permitted to speculate upon future enhancements in the case of tenants-at-will.' On the general subject the Board writes:—'The crops are dependent on rainfall, and the land-revenue administration demands special care as well as intimate local knowledge on the part of the local officers.'

§ 36. *Revenue Policy in Precarious Districts.*

In the *Karwi Subdivision Report* I find this excellent caution—which I submit as being a modernised version, so to speak, of the system which the best Native Governments always pursue, and which *ought* to be our policy for all good but precarious districts, notwithstanding any difficulty that some uncertainty in Budget estimates and Financial statements may result. 'In Bundélkhand, cycles of magnificent harvests, during which even heavy revenues are easily paid, are succeeded by periods of depression and scarcity, during which *the lightest demand, if rigidly collected, would cause distress.* The true policy seems to me to be *not to impose very light "jama's,"* which involve too great a loss of public revenue in good years, and which cannot be fully collected in bad years without hardship; but to fix a full demand which should be collected with discrimination; suspension, and (where necessary) remission, being liberally granted on account of failure of crops.' And also, Mr. Patterson says in another place: 'In bad years I would have suspensions, and, if necessary, remissions granted *freely, promptly*, and as a *matter of course.*'

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[1] I.e. would be at the end (it is noted) of a 'period of extreme depression,' then existing. See pp. 13–15 of the *Commissioner's Review of the Settlement Report*.

SECTION V.—ARRANGEMENTS FOLLOWING THE ASSESSMENT.

§ 1. *Scrutiny and confirmation of Assessment.*

The assessment of any estate or any holding, when effected according to rates which have been so carefully prepared by the Settlement Officer, scrutinized by the Commissioner, and finally sanctioned by the Board of Revenue, is nevertheless open to an appeal to the Commissioner, whose order is final, subject to revision by the Board of Revenue. The assessment of the district as a whole, or of any estate, is also confirmed by Government, and Government has the power to revise any assessment before confirming it. Act XIX of 1873, sec. 243. Sec. 249. Secs. 253-255. Sec. 92.

§ 2. *Form of Acceptance.*

When the assessments are ready, the person entitled to the Settlement, i.e. the owner, be he 'zamíndár,' taluqdár, or a village proprietor or representative (lambardár) of a body or group in joint villages, signs a 'darkhwást-málguzárí' (literally a request to engage for such and such a sum of revenue[1]). This states the amount and terms, as fixed by the Settlement Officer.

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[1] The form is given in S. B. Cir. Dep. I. Section 28.

The revenue may be payable uniformly, or, if it is any considerable increase on the expired Settlement, perhaps it may be 'rasadi,' or progressive—i. e. the full rate gradually attained—so much the first two years, so much the next, and in the fifth year perhaps, the full amount will be payable.

The sum is not alterable through the whole period of Settlement, which is usually (but not always) thirty years—a period sufficient to give the proprietors the benefit of their industry and capital expenditure, and not long enough to stereotype mistakes of policy. It is to be remarked, however, that the fixing of thirty years is a matter of policy and of the decision of the Government regarding the particular Settlement. There is no general rule or law fixing thirty years, or any other term, for a 'temporary' Settlement[1].

§ 3. *The Persons who engage for the Revenue.*

Next, we have briefly to inquire who are the persons who enter into and sign these engagement deeds.

The Settlement is to be made with the proprietor or person in proprietary possession of the estate[2].

Act XIX of 1873, secs. 43, 44.

Where there are joint proprietors, a joint Settlement is made with all, or 'with the representatives (styled lambardárs) elected according to the custom of the mahál.'

Then the question of coincident proprietary rights in the same estate has to be dealt with. This the reader will readily understand, if he remembers what has been said (Vol. i. p. 196 seq.) about the difficulties which arose where one person had been selected as proprietor among several who had claims, as, for example, when a 'taluqdár' was found to be in a position which made it necessary to declare him proprietor over the heads of the village cultivators, who had themselves once been owners, but who, from various causes, had now sunk to a subordinate position. It was often a nice question in making the first Settlements, and one which the policy of the time caused to be determined this way or that, how far the overlord *had* acquired the status of proprietor, and how ever the village people *had* lost their original position. It might well be that there was something of a proprietary character in *both* parties. When there are thus several persons possessing 'separate, heritable, and transferable proprietary interests' in the estate, the Settlement Officer is to determine, under the rules in force at the time, which of the persons is to be admitted to engage; and he then makes provision for securing the rights of the others, deciding the share of the profits to which they are entitled. The original proprietary body of the village was more commonly selected (except in the case of great chiefships) in the North-Western Provinces Settlements. In some cases, the Settlement with the inferior engages that he is to pay an amount of revenue which includes the sum to be received by a superior. This sum is paid to the superior through the treasury, and in fact he becomes a pensioner on the land merely. In cases where the Settlement is with the superior, a sub-Settlement may be (and always is) made with the inferior 'on behalf of the superior,' by which the inferior becomes bound to pay to the superior an amount equal to the Government revenue, together with the superior's own dues (and no more), so that both parties are equally protected[1]. Lastly, there are cases of persons having proprietary rights, but not such as to entitle them to a Settlement; the Act provides for the Settlement Officer making arrangements for securing them in the 'possession of existing rights *or an equivalent* thereto.'

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[1] See Vol. i. Chap. V. p. 303-4.

[2] Who he is, will appear more fully when we come to the question of tenures, and how the different estates came to be owned as they now are.

Act XIX of 1873. secs. 53-55

Sec. 56.

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[1] The reader will here trace the provisions which were found so much wanted in Bengal, and were introduced in 1822. The sub-Settlement is also, as will presently appear, a special feature in the Oudh Settlement procedure. The sub-Settlement is the same as what was called in 1822 a '*mufassal* Settlement.'

§ 4. *Refusal to Engage.*

The proprietor is free to decline to hold the estate on the terms of Settlement as finally approved, after all the remedies of appeal and confirmation by Government have been exhausted. Such a thing is practically unknown nowadays; but in the first years of administration (at any rate) it occasionally happened.

If the assessment is not accepted, then the estate can be farmed or held under direct management of the Collector for a time not exceeding fifteen years; and the owner, being thus kept out of the management, gets a (málikána) allowance out of the profits of the estate, of not less than 5 nor more than 15 per cent. on the assessment, and is allowed to continue to hold his own 'sír,' that is, land always retained for his own cultivation, but as a tenant on a rent, during the period of his exclusion from the estate. The Act provides what is to be done on the expiry of the period: it is unnecessary, however, to notice the subject further here[1].

Act XIX of 1873, sec. 43.

SECTION VI.—THE LAND RECORDS PREPARED AT SETTLEMENT.

§ 1. *Judicial Functions of Settlement Officers.*

It is observed in Thomason's *Directions* that the operations of Settlement may be divided under two great heads, one *fiscal*, the other *judicial*. And the division is quite characteristic of the 'Regulation VII' or North-Western system; it is not traceable in the Permanent Settlement of Bengal nor in a Raiyatwárí Settlement.

The *assessment* described in the preceding section is the *fiscal* part.

The *judicial* or *quasi-judicial* part is no less important;

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[1] In estates where there are *shares*, if there are some sharers that refuse and some that agree, the shares of the recusants are to be first offered to the others (section 49).

for the theory is, that Government not only undertakes to fix with moderation its own share in the profits of the land, but determines the proprietary right of the person or body whom it considers entitled to be settled with, and the rights of all other persons not settled with but having an interest of some kind in the estate. And where the proprietor is a community or jointly responsible body, it is of primary importance to ascertain and record the custom of the community in respect of the system of shares and the method of dividing the burdens and profits of the estate among the coparceners: inheritance and customs regarding succession may also have an important bearing on landed rights.

In this connection, also, the family relationship of the parties is often of the greatest importance, and the 'Shajra nasb,' or genealogical tree, which accounts for the several branchings of the family, and the 'pattís,' 'thoks,' or sub-shares, and fractional interests generally, is a document of the utmost importance[1].

Not only so, but in many cases, owing to the superposition of proprietary rights, there are ancient, but now secondary or subordinate, interests in land, to be protected by record. Not only the security of the revenue, but the well-being of the country, is dependent on doing justice to all these claims and interests.

I am, of course, speaking of what was done long ago; but it is better to speak of it in the present tense. If any district should happen to be in such a condition that its record-of-rights requires to be made out afresh, all this would be actually done. Fortunately for the districts, these records were perfected some years ago, and the only work is now to keep them up so as to correspond with the facts from year to year.

It is true that the ordinary Courts of Civil Justice are, in all cases, open to any claimant who fails otherwise to obtain his just rights; but the North-Western Provinces Revenue system has always held this to be an insufficient security. For, in applying such a remedy, it is the person claimant who must take the initiative, and bear the burden of proof. But the rights that stand in special need of support are just those which have been, to a greater or less extent, overborne by the more powerful and wealthy (who now stand forth in the superior proprietary position); in other words, they are those of the classes least able to take the initiative. Not only so, but the Courts themselves are (or rather *were* in former days) not provided with any means of judging such questions properly. The rights of villagers and the effect of village custom are distorted in the excited and partizan atmosphere of the headquarters Court: they are more likely to be truly found out by friendly and less formal inquiry in the village itself.

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[1] My own experience is in the Panjab, and perhaps I exaggerate the importance of these 'trees' in the North-Western Provinces. But in the Panjab, where inheritance cases and adoption cases are constantly before the Courts, we could often do nothing without these family histories.

If the Settlement Officer takes the initiative, the difficulty is, to some extent at least, obviated; he is on the spot, or near at hand; he inquires and ascertains what is the real state of the case. If his summary inquiry does not result in a satisfactory adjustment of all differences, he can, at least, point out clearly to claimants what they have to establish, and how they are to establish it, so that a more perfect examination of evidence and formal decision may be had in a 'Regular Suit,' heard under the procedure of the Civil Courts. Consequently, the Settlement Officer is required to record all rights which are ascertained on inquiry to exist; those which are disputed must of course either be supported by the production of a legal decision of Court, or they cannot be admitted to record.

In the old Settlements, not only was the Settlement Officer empowered to make a record, he was also vested with civil powers[1] as judge of land-causes, of whatever description, and this enabled him practically to make his record perfect, and to include not only rights that were not disputed, but those which were established by his own decrees as a law-court.

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[1] And he still is in some provinces.

As, however, rights have become more defined, and the people better able to appreciate and assert them, it has become less and less necessary to interfere with the jurisdiction of the Civil courts. The ordinary powers of the Settlement Officer are now those which are sufficient to enable him to get hold of all documentary and verbal evidence he requires, and in some cases to decide disputes on the basis of possession, or even on the merits by arbitration. Where the claimant is out of possession, and arbitration is not resorted to or not possible, recourse must be had to the Civil Court.

Act XIX of 1873, secs. 40-42, 47, 238, 240.

Sec. 64.

§ 2. *Rent and Partition Cases.*

The Settlement Officer also decides rent questions that may arise in connection with the preparation of the 'jama'-bandi,' or record of cultivating rights and rents paid. Power to refer to arbitration without consent of the parties is given. A Settlement Officer may be invested with the powers of Collector (and an Assistant Settlement Officer with those of an Assistant Collector), and as such may hear and decide partition cases, and do all the acts provided for in Sections 234 and 235.

Secs. 65-67.

Sec. 220 and the procedure in secs. 212-218.

§ 3. *Jurisdiction of Civil Court barred in certain matters.*

While the Civil Court decides all regular land-suits, its power to interfere in various questions regarding assessment, formation of records, and many other matters, is expressly taken away by Section 241.

§ 4. *The Records of Settlement.*

The Settlement Records will then, as a whole, consist (1) of the maps and indexes; (2) the records of the revenue engagements; and (3) the Record of Rights. The reader will easily follow for himself the class to which the records belong in the following general list.

The documents (prescribed by the Board) are—

(1) The **shajra**, or village map[1].

(2) The **khasra**, or index register to the map. It is a list showing, by numbers, all the fields and their areas, measurement, who owns and what cultivators he employs, what crops, what sort of soil, what trees are on the land, &c.[2]

Subordinate to the *khasra* may be a statement regarding irrigation by wells, canals, &c.

(3) '**The village statements.**' These are statements showing concisely all the facts and details ascertained by the Settlement Officer and noted in his 'pargana note-book' as bearing on the assessments[3]. They may also contain the Settlement Officer's general reasons for the assessment of the village.

(4) The '**darkhwást málguzárí**' (called in Oudh and perhaps elsewhere, 'qabúliyat') is the engagement to pay revenue.

(5) The **khéwat**[4]. This important document is a record of the shares and revenue responsibility of each owner or member of the *proprietary body*.

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[1] The 'thákbast' or boundary maps and proceedings showing how the boundaries were settled (for villages and estates, &c.) are not mentioned as part of the North-Western Provinces Settlement Record, because this part of the business was long ago completed before the Settlements now in force were made.

[2] In the earlier Settlements of these provinces (and also the Panjáb, the Central Provinces, and Oudh) an abstract called a 'tírij' or 'muntakhib ásámíwár' was prepared. It showed the owners and the fields each holds, grouped together according to names. In the *khasra*, for instance, one man might hold field No. 1, and the same man's name not occur again till, say, No. 50, and again at No. 139, and so on. The 'muntakhib' started with the names of holders, and grouped under each man's name all the different fields he held, and added, in a few columns, the *chief* items of information shown in the more numerous columns of the *khasra*.

[3] In Oudh (*Digest V*, section 56), the jama'bandi or rent-roll showing rents paid, as *they were at time of survey*, is kept still. In the other provinces, the use of this is confined to the rent or revenue-rate reports. Oudh also requires certain other statements which, in the other provinces, are confined to the *Rent or Revenue Rate Report*, to be placed on the Settlement Record itself.

[4] The term *khéwat* properly means share of burden or liability; it originated in Bengal, where a certain contribution had to be levied on rent-free lands in order to make up a deficit, i.e. when the assessed lands could not make up their total revenue.—*Wilson's Glossary*.

In the North-Western Provinces, tenants have no place in this: their holdings and the rent they pay are shown by the 'jama'bandi' (No. 6)[1].

Various appendices to the khéwat are prescribed or allowed. They are (1) the statements of revenue-free holdings; (2) a list showing the shares and holdings of the present proprietors, and how these interests were acquired; accompanied by a genealogical tree; and (3) a statement of rights in wells.

Act XIX of 1873, sec. 62, cl. d.

(6) The **Jama'bandi**, showing the cultivating rights and rents of all tenants[2].

(7) The **Wájib-ul-'arz**. This is the village administration paper: it contains a specification of village customs, rules of management, and everything affecting the government of the estate, the distribution of profits, irrigation, and rights in the waste.

I shall not here go into any detail, as it would take up too much space, and the student can readily refer to the North-Western Provinces Circulars[3], which give a complete account of the records and their form and manner of preparation.

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[1] In former days, besides the *khéwat*, a 'khatauni' was used, which was, in fact, another abstract of the *khasra*, grouped according to holdings, but having a column (and herein lay its usefulness) showing how each holding was cultivated, whether by tenants, and if so, whether they had occupancy rights or not. In the North-Western Provinces at present the *khatauni* is not maintained, as information is contained in the *jama'bandi*.

[2] The student should read carefully Sections 62-76, Act XIX of 1873, and bear in mind that, even when a district is not under Settlement, the provisions of Section 73 may be put in force and an officer appointed to commute rents. As regards the *jama'bandi* itself, Section 63 provides that the record shall 'specify the person (if any) holding land at a rent fixed by grant or by contract, or on condition of service or otherwise, and all other tenants in the "mahál," the name and caste of each, the area of their holdings, and all conditions of their tenure.' The student will not confuse *this jama'bandi* with the document called by the same name, and made use of in preparing the *Revenue Rate Report*. That shows the rents *as they are stated to be at the time of the survey* before the new assessment is made out. In the *Settlement Record*, *jama'bandi* rents are entered according to the arrangements agreed upon by the parties, or *decreed*, to suit the new rates of the Settlement; if there is a case pending the place is left blank. (See Act, Sections 67-72; and S. B. Cir. Dep. I, p. 13.)

[3] See S. B. Cir. Dep. I. § 51, p. 15.

(8) The **Rubakár-ákhir**, or 'final proceeding,' and abstract of the proceedings of Settlement.

It gives a brief narrative of the Settlement operations, the period occupied by each stage of them, explains what officers carried them out, the year when the assessments took effect, the year for which the *khéwat* was prepared [1], and the date on which the *Settlement* record was complete [2].

(9) The English *Settlement Report* for the whole district. This should here also be mentioned, although it does not form part of the record deposited in the Collector's office, and which comprises the documents above described, and all in the vernacular [3].

§ 5. *Preservation of Records:—their legal effect.*

Act, sec. 90, S. B. Cir. Dep. I. para. or § 40.

The papers in the record are signed and attested by some one or other of the Settlement Officers according to the discretion of the Settlement Officer.

When faired out and bound, the originals are deposited in the Collector's Record Room, and the necessary copies are made for the tahsíl or local officers, and for the patwárí.

The original Settlement Records prepared under the Act are bound up, usually in two volumes [4].

I. The record of rights (i.e. 'khéwat,' 'jama'bandi,' &c.)

II. The village maps, khasra, and other papers not included in what is technically the record of rights.

The maps are, of course, extensively multiplied, as the patwárís will require copies on which to show alterations in field- or holding-boundaries as they occur from time to time.

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[1] This will be noted afterwards; the khewat shows the rights as they existed on a certain date: of course, sales, transfers by inheritance, and so forth, modify it afterwards, and these modifications are continually recorded from time to time under the direction of the Land Record Department.

[2] S. B. Cir. Dep. I. § 55, p. 17.

[3] An officer desiring to know the district in which he is employed (and this applies also to Forest Officers) should study the *Settlement Report* as his first step. Some reports are full of the most valuable historical, sociological, and other information, as well as full details regarding soils, irrigation, products, rates of rent, assessment and tenures of land.

[4] See S. B. Cir. Dep. I. Rule 30.

§ 6. *Legal Provisions.*

Act XIX of 1873, Section 94, directs that the records shall be kept by the Collector, and provides for the maintenance of registers (prescribed by the Board) in which (*a*) changes of all kinds, (*b*), anything that may affect any right or interest in the record, (*c*) corrections of errors in the record admitted by the interested parties to have been made, shall be entered.

Every change registered is so by order of a Collector or Assistant Collector. The process of mutation or changing entries, technically called 'Dákhil-kháríj' (entering and putting out), is described further on under 'Revenue Business and Procedure.'

Section 91 of the Act provides that 'all entries in the record properly made and attested shall be *presumed to be true till the contrary is proved.*'

APPENDIX.

Rules under Section 39, *Act XIX of* 1873, *prescribing the mode in which the revenue demand is to be assessed upon land in the North-Western Provinces [applicable in cases in which the Local Government determines that an uniform rateable enhancement should not be imposed]*.

1. THE assessment of the revenue in each village is to be based as far as possible on the actual rentals recorded in the village rent-rolls, corrected where necessary—

(1) for land held as sír or khudkásht (that is, land, not being sír, cultivated by proprietors), and rented at nominal rates;

(2) for land held on grain-rents, or land recorded as rent-free or held at manifestly inadequate rents;

(3) for fraudulent concealment of assets.

The Settlement Officer is not at liberty to add to these rent-rolls any estimate on account of a prospective rise in rents or prospective increase in cultivation.

2. The Settlement Officer having obtained the attested rent-rolls or jama'bandis [as prescribed in the rules for survey and record work] for the villages of a pargana or other area, will prepare area tables for each village under the following classes of tenure:—

(1) Sír (*a*) cultivated by proprietors as in rule 14, and (*b*) sublet;

(2) Khudkásht not being sír;

(3) Tenants' land at full cash-rents;

(4) Grain-rented lands, lands held rent-free or for service, and other favoured tenures.

3. In order to satisfy himself that the attested rent-rolls correctly represent the rentals actually existing, and to enable him to frame corrected rentals (rule 8) as specified in clauses

(1), (2), and (3) of rule 1, the Settlement Officer will make an inspection of each village.

4. After completing the inspection of a sufficient number of villages, the Settlement Officer will determine what villages may be grouped together for the formation of assessment circles.

5. An assessment circle may correspond with a pargana, or more than one circle may be formed in a pargana, or the Settlement Officer may form a circle by classifying villages according to the rent-rates recorded for tenants' lands in the village rent-rolls.

6. Similarly, after completing the inspection of a sufficient number of villages, the Settlement Officer will select a general standard rent-rate for each class of soil in the circle. The rent-rates selected should correspond as closely as possible with the rents recorded as actually paid by cash-paying tenants in the villages which form the circle.

7. A standard rent-roll will be framed for each village by applying the standard rates to the cultivated area of the village, subject to the allowance granted under rule 14 for sír.

8. The rent-roll may be corrected in any of the following ways:—

(1) By striking the incidence of the whole rental, paid by tenants at full rents, on the whole area held by them, and applying the average rate thus obtained to the area held as sír, k͟hudkásht, and on grain or nominal rents.

(2) If the rent recorded for the lands of tenants paying full rents agrees with the rent obtained by applying standard rates to those lands, but if the classes of soil held as sír and k͟hudkásht or held on grain or nominal rents, differ materially from the classes of soil held by tenants paying full rents, the Settlement Officer may correct his rent-roll by applying to the former classes of soil the standard circle rates, or the rent-rates which he has ascertained, during the course of his inspection, to be actually paid by tenants, in the immediate neighbourhood, for lands of the same class similarly situated and with like advantages.

(3) If the whole or nearly the whole area of the village is

sír or khudkásht or land held on grain or nominal rents, the Settlement Officer may apply the standard circle rates, or the rent-rates which he has ascertained, during the course of his inspection, to be actually paid, by tenants of villages in the immediate neighbourhood, for soils of the same class similarly situated and with like advantages.

(4) In villages which contain grain-rented lands, the position and character of such fields must be very carefully ascertained. It may be found that the grain-rented land comprises mostly outlying and inferior fields, or fields subject to special disadvantages, such as non-resident cultivation, liability to flood, or, if on the outskirts of jungle tracts, to the ravages of wild animals. The application to such areas of circle standard rates, or of the cash rent-rates of similar lands in the village or its neighbourhood, will require careful consideration; and due allowances should be made for any special precariousness of crop, or uncertainty of cultivation, or for lower receipts as compared with those from other cash-rented fields of similar quality.

9. If the corrected village rent-roll agrees fairly with the rent-roll according to standard rates, the Settlement Officer will at once accept the corrected village rent-roll as the basis of his assessment. The Settlement Officer will throughout his proceedings give proper weight to the recorded rent-rolls of past years.

10. In cases of divergence of the corrected village rent-roll from the rent-roll according to standard rates, the Settlement Officer will be guided by the following considerations and procedure:—

(*a*) If the divergence arises from any peculiar conditions of the village, such as the class of cultivators, character of the soil and cultivation, or the position of the village in respect to floods or the depredations of wild animals, the Settlement Officer will accept the corrected village rent-roll for his assessment.

(*b*) If there are no such special conditions, but the Settlement Officer is convinced that the divergence is due to fraudulent concealment of rents, or to rents having been designedly let or kept down or to land having been thrown out of cultivation, in anticipation of revision of the assessment, the Settlement Officer may proceed to ascertain the special soil-rates admitted to prevail in the village, or he may apply the circle standard rates or the rent-rates which he has ascertained to be actually paid, by the tenants of villages in the immediate neighbourhood, for soils of the same class similarly situated and with like advantages. The Settlement Officer will then determine the sum which is to form the basis for assessment.

(*c*) If the corrected rent-roll is inadequate, not on account of the fraudulent understatement of assets, but in consequence of the inadvertence or easy management of the proprietor, the Settlement Officer should usually accept the rent-roll as the basis of assessment, if it gives a reasonable increase on the amount of the demand under the expiring Settlement.

11. The rates described in clause (*b*) of the preceding rule will be entered in the column for 'village rates' in the assessment statement.

12. 'Village rates' should only be used in the cases described in rule 8, clauses (2) and (3), and in rule 10.

13. Where the corrected rental is materially in excess of the rental by standard rates, the Settlement Officer should, before accepting the recorded rents as the basis of his assessment, satisfy himself that they are actually paid, and that a revenue demand based on them can be realised without undue pressure on the proprietor or tenants.

14. In calculating the revenue, the rates applied to proprietary sír should be 25 per cent. less than the rates applied to tenant land. [Now reduced to 10–15 p.c.] All sír land actually and in good faith cultivated by proprietors with their own stock and servants or by hired labour should be valued at the favourable rate. But inquisitorial investigations into the way in which sír is managed or divided are not to be resorted to. The Settlement Officer should, in the course of the verification of the rent-rolls, find no difficulty in ascertaining and judging to what extent in each estate sír is to be treated as being under the habitual cultivation of the proprietors.

15. In addition to the assessment on rentals, the Settlement Officer may take into consideration the average receipts from natural products, such as fruits, fish, or other *sayer*, and add them to the total of the corrected rent-rolls, provided that minerals are not to be taken into account as assets (where any right to them is reserved to the Government). The term 'minerals' includes stone-quarries, kankar-beds, and all other similar products.

16. The revenue assessed upon each estate shall ordinarily be 50 per cent. of the corrected rent-roll, with any addition that may be made on account of sayer profits. But large and sudden enhancements of the revenue are to be avoided, even when the corrected rent-rolls would seem to justify them. In such cases, the Settlement Officer should consider whether it would not be advisable to realise the enhanced demand by progressive rises spread over a limited number of years, and he should submit definite proposals in each case for the orders of the Board.

17. In other cases, the Settlement Officer may, for any special reasons, take a higher or lower percentage than 50 per cent. of the rent-roll. But whenever the proposed revenue exceeds 55 per cent. or falls below 45 per cent. of the rent-roll, he must obtain the special sanction of the Board to his proposals.

18. Whenever a landlord establishes to the satisfaction of the Settlement Officer that increased rents are being actually paid on account of water-supply provided by him from wells or other irrigation works constructed either by private capital or by loans under Act XIX of 1883, the increased rents shall not be taken into account. Thus, whenever a landlord can prove that land, assessed at the expiring Settlement as dry land, is now paying rent as irrigated land in consequence of his own expenditure of capital on an irrigation work, such land shall continue to be rated at unirrigated rents. Again, whenever a landlord satisfies the Settlement Officer that increased rents are being actually paid on account of land formerly unreclaimed waste, but brought under cultivation at his own expense, whether the capital so expended was derived by him from loans under Act XIX of 1883 or otherwise, the increased rents due to such expenditure shall be exempted from assessment until the expiry of fifteen years from the date of the

commencement of the reclamation operations. The Settlement Officer will also take into consideration any other special outlay made by a landlord during the currency of the expiring Settlement otherwise than by means of a loan under Act XIX of 1883. In regard to improvements made with the aid of loans under the said Act, which do not consist of the reclamation of waste land or of irrigation works, the Settlement Officer will be guided by section 11 thereof.

19. In cases where the full assessment is postponed under the preceding rule, the Settlement Officer shall fix (*a*) the initial revenue payable from the introduction of the revised Settlement, and (*b*) the enhanced revenue payable after the expiry of the period for which increase in the revenue demand has been deferred.

CHAPTER II.

THE LAND-TENURES.

SECTION I.—GENERAL REMARKS.

THE Land-Tenures of the North-Western Provinces invite a special study, for here (as well as in the Panjáb), owing to various causes, village communities of the joint or landlord type (Vol. I. Chap. IV. p. 106) in a more or less perfect state, are found to be the prevailing feature. Here 'villages' can be studied, if not in their original form, at least without the aid of that conjectural reconstruction which caused so much difference of opinion when, at the beginning of the century, inquiries were made regarding the existence of 'communal' proprietary rights in villages in the Bombay and Madras districts. It was the general prevalence of this form of landholding that gave rise to the special Settlement system[1]. I think, however, that there can be no doubt that, just as in Oudh, all the villages were not really or in origin, of the same type. Truly joint villages grew up in groups, among and adjoining those over which no landlord body obtained the ascendancy, and which were originally of the raiyatwárí type. The universal *joint* character is the result of our own system; and in these Provinces, unlike the Panjáb, a large number of the present communities are of modern origin.

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[1] It has already been explained that the village as it exists locally or geographically, is not always the estate which is treated as the unit of assessment. It may be convenient to divide one village into two or more revenue units. One estate may also consist of parts of several villages; but the statement in the text is sufficiently correct for the bulk of cases.

I have already, in a general view of the Land-Tenures in India, warned the student that he must not expect to find that the existing communities are really 'archaic.' He will not suppose that they altogether represent, at first hand, ancient tribal ideas of property. But even when the communities date, as many of them do, hardly a century back, and when (as is true of many more, especially of the ancestrally-shared estates) they are due to the multiplication of the descendants of chiefs or petty princes who obtained the villages by conquest or grant within late historic times,—when the village community is due to these causes, *still it is connected* with archaic society in this way, that the principle of joint inheritance and the customs of sharing, of preemption, and other means of excluding strangers, are all derived from the aboriginal tribal idea, that the family, not the individual, is the owner of property. And this is equally true of the villages (true *bhaiáchárá*) where ancestral shares never were recognized, but where a special principle of allotting equal shares and holdings for individuals or families, obtained: some tribal bond and traditional principle of association, must have furnished the scheme by which the body worked and held together. Hence, while we recognize that the always plausible if not convincing chapters in which the philosophical jurists of the present century account for Indian village 'communities,' are not altogether in accord with any actual facts, they have yet a sufficient undercurrent of truth to make the *principles* evolved, instructive and even reliable. Hence the interest that attaches to North Indian tenures is great[1].

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[1] It is unfortunate that we have not any really good general account of these tenures to refer to. In the *Administration Report* of 1882-83, the sketch of tenures, based unfortunately on the old classification (of which we shall have more to say presently), is not worthy of the many eminent Revenue Administrators and excellent writers the North-Western Provinces possess. In Field's *Landholding in Various Countries*, the information given, is derived from sources long out of date, and is neither accurate nor satisfactorily put together; and the student is therefore obliged to refer to the detailed notices of districts which, valuable as many of them are, have to be exhumed out of *Settlement Reports* and *Gazetteers* full of other matter, and has to hunt for

In order to present the land-tenures in an intelligible form or order, we must essay to classify them according to some principle. Directly we attempt this, it becomes clear that, by looking at one or other of the leading features, we may adopt several classifications, which will in some instances be cross-classifications.

§ 1. *Classification of Tenures with reference to the Government.*

If, for example, we regard things from the point of view of the State and its position in respect of the land, and the persons, if any, between the State and the landholder, we may classify thus:—

(1) Where Government is the actual and direct owner of the land; as where a village has escheated for want of heirs, or has been sold for arrears of revenue and Government has bought it in[1].

(2) Where there is only one person interested in the land, as either cultivating it himself or by a tenant or labourer under agreement with him: that is the case in 'raiyatwárí' countries.

(3) Where besides the actual occupant or cultivator of the land, there is a second interest, that of a middleman, who has now become direct proprietor or landlord, and is so treated; or there is a body of joint proprietors regarded as a

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papers often out of print, though once included in the *Selections from the Records of Government*. It is high time that the whole of these *Selections* should be overhauled, and all that is valuable re-edited and reprinted. Such a reprint would occupy but a very limited space compared with the originals, which are now more and more difficult of access. I have hunted through half a dozen official and public libraries to get some particular numbers of the *Selections*, and even then have failed in more than one instance. Under such difficulties I shall have to apologize beforehand for the following remarks which will often leave much to be desired, and for sections which will not exhaust the subject even in its plain matter-of-fact aspect.

[1] These are what the older revenue-writers meant by 'khás' estates. There were sometimes also 'khána khálí estates,' whose 'home was left unto them desolate.' Both are rare in the North-Western Provinces, where the tendency is to find owners for them. In Bengal, 'Government estates' form a very considerable class.

'legal person.' The 'body' may consist of one person, or of a number of undivided (or divided) co-sharers.

It is owing to this (3) state of things that the most general tenure of North-Western villages is said to be a zamíndárí (or landlord) tenure. A village community settling with Government through its 'lambardár' is treated as in form, a case of Settlement with a landlord, because, though each sharer has his revenue, in a sense, individually fixed, it is as a share of a lump sum with which alone Government is concerned: the middleman is the person who pays the village assessment as a whole—i.e. the ideal body, the jointly responsible whole, represented by the seal or signature of the headman. The headmen themselves are not in any way or sense whatever, the middlemen; the body as a whole is; and this is saved from being an absolute fiction or legal ideality, by the fact (always potentially available but rarely enforced) of the *joint liability* of the whole estate, whether divided into separately enjoyed shares or not.

(4) Lastly, there may be, besides the immediate landlord, or landlord-body, and the tenant, yet a third person—a Zamíndár or taluqdár, who has not so grown that he has himself become the *sole* proprietor. He has a sort of 'lord of the manor' or overlord interest in the property, which finds its expression either in a cash allowance included in the village revenue but paid through the treasury; or possibly in the fact that the Settlement is made with him as overlord, and a sub-Settlement with the village body at so much more: when this latter occurs, the taluqdár pays to the treasury the amount of his own Settlement, and pockets the difference between that and the amount of the sub-Settlement.

This last class forms the 'double' or 'taluqdárí' tenure of Northern India.

§ 2. *Classification with reference to the Revenue Payment.*

Another classification arises out of the payment of Government revenue. It is used chiefly by writers in the Bombay and Madras Presidencies. I refer to that which is expressed by the terms—seldom heard in Upper India—'alienated' and 'Government' land. In the one, the revenue and consequent lien or interest of Government, are alienated or granted away; in the other, the Government retains its rights. In the former a distinction arises, according as (*a*) the land is owned by, and the revenue assigned to, the grantee, or as (*b*) the land is owned by some one else. The first case specially arises in smaller revenue-free holdings granted to religious persons or for other services, and known as 'mu'áfí,' because the owner of the land is 'excused' (mu'áf) the payment of the land-revenue due on his own land; or the State grants to him a plot of land and makes it revenue-free, so that he is both owner *and* assignee of the revenue. In the case (*b*) the Government merely assigns its revenue rights (jágír, &c.) without necessarily touching the proprietary right in the soil. In this latter case the grantee may remain, drawing his cash allowance, and having nothing but a contingent interest in the soil,—an interest which may be realized in the event of lapse by failure of heirs or some similar accident among the actual owners. No doubt the assignee has excellent opportunities, and in the course of time, by one process or another, he often succeeds in ousting the original rights and becoming the owner as well as the revenue-assignee. It might, of course, happen that a 'jágír' was granted in respect of ownerless waste or abandoned land, and then the jágírdár would be owner as well as assignee.

§ 3. *Further Classification of Landlord-Tenures.*

When, however, we come back to the form of classification which depends on there being one or more grades of proprietary right, and take the case of there being one such grade—the proprietor being an actual individual or several individuals together, or an ideal body or organized community,—between the cultivator and the State; in other words, when we deal with joint proprietary bodies, whether divided or not, we find the necessity of some further classification. And here it is that the old classification which was adopted, though perhaps not originated, by Thomason's *Directions*, and has unfortunately been continued, if not directly in the language of Acts of the Legislature, still in reports and in accounts of tenure so recent as the *Administration Report* of 1882–83[1], is to be regretted. It treats estates (when we are not thinking of the taluqdárí or double tenure, nor of revenue-free and revenue-paying distinctions) as divided into (1) zamíndárí, (2) pattídárí (with a variety 'imperfect pattídárí'), and (3) 'bhaiáchárá' (also with a variety 'imperfect bhaiáchárá'). This classification was formerly adopted for such convenience as might have resulted from it, in the first days when inquiry into tenures began to be important. But except as regards the term 'bhaiáchárá,' it has no place in the language or thought of the people, the terms being mere vernacular-office equivalents of English terms indicating 'landlord' and 'divided share.' And it really has but little significance, while what meaning it has is apt to mislead or to obscure distinctions that really are important[2]. For from the point of view first taken, *all* these estates are 'zamíndárí'—i. e. there is one person, an individual or a legal body, that is between the actual co-sharer or the soil worker, and the State. And that person or body enters into the revenue-engagement with the State. But the classification in question, taken as it is used in the books, indicates that the estate, be it one village or more or less, is held either—

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[1] This was a year of the quinquennial reports which republish the history and other general matters of interest in each province.

[2] It should, however, be borne in mind that Mr. Thomason himself never intended the classification to be other than an arbitrary one, adopted for official convenience, and based on the degree of separation as 'an obvious distinction.' He admits that the difference of the *rule according to which profits are shared* is a good ground of distinction. (See *Directions*, edition of 1849, §§ 86 and 91, pp. 54, 55.)

(*A*) By one person [‘*zamíndárí-khális*’ of the books.]

(*B*) By several, but jointly and without division of holdings (*zamíndárí-mushtarka*).

(*C*) By several owners, whose shares are divided out on the ground, *on a scheme based on the law of inheritance*, i. e. ancestral fractional shares (*pattidárí*).

(*D*) Ditto ditto only that part of the land is still held undivided; *pattidárí na-mukammal* or imperfect *pattidárí*.

(*E*) By a group of co-owners whose shares are not based on ancestral shares, but upon a peculiar method of equal allotment; and the term *has been extended to include* all villages now shared, not on any regular plan, but on the accidents of *de facto* possession, or the original shares having been lost or modified beyond recognition.

(*F*) There may also be an ‘imperfect’ form of (*E*).

The two ‘imperfect’ classes are often confused up together, on the sole ground that in each there is some of the land divided and some still held in common.

But such a classification as between (*A*) and (*B*), (*C*) and (*D*) is based on a distinction of no import whatever: it conceals, indeed, the totally different *origin* which the tenures may have had, and only appeals to the fact that the shares in the estate, all of which may be calculated on the same principle, are or are not divided out on the ground wholly or partly[1]. (*E*) again, marks a distinction, real, but on a different principle of classification; because here it is not a question of division and non-division, but of the theory or basis on which the interest of the co-sharers is distributed; and the confusion of the true bhaiáchárá with other forms, is, from the student's point of view, most unfortunate.

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[1] As Mr. R. S. Whiteway points out in a memorandum he was kind enough to send me, it is a misuse of language to call these different tenures. Tenures only vary where the numerous rights, which together make up the totality of interest in the soil, are differently divided between persons having an interest in the soil, not when the *same rights* are shared in different ways, either *all* held by one man or *all* divided among several.

§ 4. *General Features of the Landlord-village Tenure.*

Whatever classification is adopted, the general features of the joint-village are now for administrative purposes, the same. There is the proprietary body, divided or undivided[1], sometimes governing itself by aid of a pancháyat, or council of the heads of the chief families, though this institution has in most cases fallen into decay. The 'lambardár' is merely the headman elected, or partly elected and partly appointed, and to some extent hereditary, for the purpose of dealing with the authorities and representing the 'body,' in signing the revenue-engagements, and collecting the revenue; and he has certain duties in respect of police and general administration. The proprietary body, besides the rents they take, derive profits from the 'sáir,' or produce of the waste (thatching-grass, fruits, &c., &c.) and of fisheries, and also what are sometimes spoken of as 'manorial dues,' viz. fees on marriages, shares in the offerings at shrines, and house-taxes on the non-agricultural and trading classes.

Accounts of the common expenditure (which may be more or less extensive according to its scope, as determined by the degrees of jointness in which the village is held)[2] are settled annually, or, more rarely, after each harvest, and this is called the 'bujhárat.'

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[1] The division into demarcated shares or holdings, effected by the process known as 'imperfect partition,' does not affect the constitution of the estate as a whole, nor the theoretical joint liability of the whole for the Government revenue. When a divided (pattidári) village chooses, it may, by a further application for 'perfect partition,' dissolve the joint liability, and so form a number of separate estates.

[2] E.g. in a village held jointly, the accounts include all the rents and profits reserved to the common account, and the revenue and other charges against them. In a village held in severalty, the rents and revenues have become individual matters, and the common account is only concerned with charges that are common, such as charities, entertainment, &c.

§ 5. *Classification Proposed.*

In the interests of historical science a proper classification for statistical purposes is needed. And I believe that it could be adopted without serious difficulty. An essential point of interest is the primary distinction as to constitution or principle of sharing. In one group, **ancestral shares**—the fractional interest dependent on the law of inheritance—is the measure of right in the distribution of burdens and profits; in the other, a standard derived from **custom**, originating in various ways. In the latter case it will be of the highest interest to distinguish further cases—(1) where the custom is the old original one, as in the true 'bhaiáchárá-bíghá' villages; or (2) where a holding by 'ploughs,' or by *de facto* possession has *always* been the rule: (3) where the present 'customary' holding is the result of a loss or abandonment of some earlier plan of ancestral (or other) *shares*: and in this case it will be found that the modification is either total or partial. Where there has been a loss or change of an original scheme, the holders may or may not consent to *record* their present holdings: and the fact of record or non-record is an important indication of the degree of fixity which the principle of land-sharing has attained. If the co-sharers do not have their share or holdings recorded, it may be taken as an indication that there is a lingering sense that the existing possession or share is not quite yet a permanent measure of right, and may be (theoretically) corrected at some future time. If we exhibit the system of joint-villages (when held in severalty) in the form of a table, we may put it thus:—

I Class. Where the ancestral share is the only standard for the distribution of profits.	Shares and holdings recorded, and the holdings, more or less, nearly correspond, and can be tested by referring to the genealogical tree.
II Class. Where ancestral shares are to *some extent* acknowledged, but change has affected the rest.	(*a*) Separate holdings of 'sir' land recorded (i. e., customary holding of part is fixed and acknowledged) and the rest goes by ancestral shares. (*b*) Shares are recorded; but *in fact*, each co-sharer holds an area

II Class (*continued*) . . .	of 'sir' at no rent or at nominal rent, out of proportion to his share. Distribution of miscellaneous profits and of undivided lands, however, goes by ancestral shares.
III Class. Where *custom* (and not ancestral shares) governs the distribution.	(*a*) *De facto* possession (1) has always been, or (2) has become, recorded as the measure of interest; whether or not a future or periodical redistribution is contemplated as possible.
	(*b*) (Very rare.) Separate possession not recorded—the *khewat* is only a list of names. Mr. Whiteway, (*Muttra S. R.* p. 44) mentions two villages where the proprietors preferred to make yearly arrangements for the cultivation.

N.B.—In registering Class III, it would be noted (wherever possible) whether the present 'custom' is the original constitution or the result of a loss of an earlier system.

§ 6. *Comparison of this with the old Official Classification.*

If, with this view before us, we try to make use of the old official terms, it will at once appear that some estates entirely divided into lots, may be of the first class, or of the second, or of the third: but, as far as I know, the term 'pattídárí' is in practice applied only to the *ancestral* class. The term 'bhaiáchárá' no doubt does indicate a true division so far that it marks that 'custom of the brotherhood,' *not* ancestral shares, is the measure of interest; but under this term have now been included several villages whose form is really distinct in origin[1]. Villages held on

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[1] These terms will be recalled if they are unfamiliar, by a reference to the General Chapter on Land-Tenures, where a table is given. Various names are adopted for the kinds of 'bhaiáchárá' groups where ancestral shares are not the measure of interest. In some reports they are 'qabzadárí' (i.e. where actual possession (*qabza*) is the measure of right), or (in Bijnor) *kanadárí*. Another kind is 'bighádám,' where the share and payment are by area (bighá). 'Bhej-barár' is not really a synonym of bhaiáchárá, but indicates one method (formerly a common one) by which bhaiáchárá estates were managed, as regards distributing the revenue burden.

'customary' shares may in all cases be divided into 'tarf,' 'pattí,' &c., either indicating the branching out of a single family, or the divisions which arose from the different sections of the group which founded the village in co-operation. In some villages the bhaiáchárá *pattís*, &c., may be real *family* divisions, only that the group has lost its proper *ancestral* share-system.

Estates, the primary holdings of which are 'bhaiáchárá,' or by custom, are of course constantly returning to the use of ancestral shares, because *now*, when any sharer dies, his holding is divided among the sons or other heirs according to the law or custom of inheritance.

SECTION II.—THE VILLAGE TENURES.

§ 1. *Origin of Village Communities.—Villages have become uniformly joint under our System.*

I propose now to proceed, first, to describe how these different classes of villages originated, and then to exemplify several of their *forms*, by reference to the *Settlement Reports*.

At the outset, I may explain, what I have already briefly mentioned, that *all* the villages under our Settlements have been uniformly treated as jointly liable to Government, and have been recognized as joint-owners of the adjoining waste included in the estate for use as pasturage or for the extension of cultivation: they are therefore *now* on one and the same footing as joint or landlord villages, the members having an interest in the entire estate until division. But really a large number of them were not originally 'joint' in the sense in which the word has been explained in my opening chapters. No doubt villages that had once been truly joint may have lost that character through oppression and misfortune,—for example, in the Jhánsi division, where the Maráthá power levelled down rights more than elsewhere; and here the joint character of the villages, even of those that had once been held by landlord families, often seemed to have disappeared. But there were many communities where a joint claim to a fixed area as a whole, never existed, and, in fact, the village group of Manu's time—each man claiming his own holding—was the original or pre-Settlement condition of things.

Such villages now fall equally under the official classification of bhaiáchárá, because they agree in this one feature, that the land is not held on *ancestral shares*. The real old bhaiáchárá (of Benares and elsewhere) was, I must repeat, of a different type—it was a joint-village in the full sense, only that it had a special mode of sharing, and will be described further on. If we ask for proof that some of these villages were, as stated, of the raiyatwárí type, in which each man had the land he could manage, bore the revenue-share that had been allotted to him in communication with his fellows, and claimed nothing else, we find it in the terms still used to indicate the holdings. The family or individual plot is the holder's 'dád-illahi' or gift of Providence; or it is said that every man's cultivation extends to what he can manage—'kásht ḥasb maqdúr'[1]. Moreover, neither tradition nor history will point to any incoming, conquering or grantee family, calling itself the superior or landlord body. The castes of the landholders may, or may not, be various; but all are equal. Nor does it appear that loss of *status* or any change, has at any former time overtaken such a village.

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[1] Villages originally constituted in this way of course accepted the joint responsibility for the revenue; and if it be asked why they did not, as we know some villages did in the Central Provinces and elsewhere, decline the joint constitution, it is to be remembered, first, that the joint responsibility is really a very shadowy thing—snapped directly by a petition for 'perfect partition'; and, next, that in the North-Western Provinces the waste was mostly valuable, and the grant of it in joint proprietary right was appreciated. Also, when land is valuable, and there is either a strong clannish feeling, or a desire for a long-existing association to stick together, the advantages of a joint constitution may be real. Moreover, when a dense population begins to press on the land, the right of preemption, which is a feature of joint communities, gives every existing co-sharer a right to purchase in preference to an outsider and thus secures a livelihood for his family. This again affords a strong inducement to a village to hold together. All depends on the feeling of the people, the abundance of the population, and the demand for, and value of, land.

While, however, there can be little doubt that *some* of the so-called 'bhaiáchárá' villages of the present records are old 'raiyatwárí' villages, over which no change by the advent of landlord classes had passed, they are not the only type of village which has been confused under the general name. Other 'bhaiáchárá' villages are, quite possibly, landlord or joint-villages where the shares got lost from poverty, violent interference, or other causes. Others, again, are due to later extensions of cultivation by voluntary association. Of this we have many examples in almost every province. Such bodies of cultivators were often sent out under the encouragement and protection of some chief or prince. In this latter case, the body, though of different castes and families, agreed together and clung together from the necessity for mutual aid and defence. Naturally, there was often no common bond of family descent, and no idea of allotting land on *ancestral* shares, as there is where the present body are all descended from one or two 'founders.' The settlers built a village residence, and each took his land according to his power, i. e. according to the number of hands his family contained (or the labourers he had induced to follow him), the number of ploughs and bullocks that he brought, and so forth. The leading men also dug the tank or sunk the wells and planted the village grove, and had a sort of pre-eminence in virtue of this. Then it was that the State, finding headmen necessary, gave them further powers by granting them privileges and revenue-free holdings, and possibly gave them the opportunity, in later days, of becoming 'farmers' of the village revenue. In such cases very much the same terms as those above instanced would be used of the several holdings, because the constitution was practically the same.

In short, in dealing with the villages generally, we have to describe both villages which at an early date became joint, owing to the growth of a landlord class in the past, as well as villages that owe their joint constitution really to our own Settlement operations.

How landlord-rights grew up among and over villages originally raiyatwárí, we have already considered (Vol. I. p. 130). It is here only necessary to remind the reader that *landlords* got a footing in the villages in several ways, and that when the landlord died, his family gradually multiplied into a jointly-entitled body, which formed, in time, a community of proprietors.

The methods of origin I may also briefly recall. They are—(1) When the ruling prince made a grant of his rights to a scion of his family, or some other dependant in one or more villages. (2) When there had been a disruption or division of a chief's or prince's estate, and the members seized on or managed to retain fragments in the form of single villages. (3) In later times when a Revenue-farmer, or a purchaser at an auction sale for arrears of revenue, got the village as landlord, and his descendants multiplied into a body. (4) But besides cases of this kind, we also find small clans and bodies of adventurers conquering or settling in a district, and the villages becoming by division or allotment in some way, landlord villages from the first; held by groups of the high-caste families. Here we find that occasionally such clans or bodies acknowledged no Rájá or chief, and divided the village lands, not by any *ancestral* shares, but on a principle of equal division, often adopting curious methods of land-measurement, and of making up 'bíghás,' consisting of plots of each kind of soil, with a view to equality. This particular form of holding 'by custom of the brotherhood,' was *really* the true and original meaning of bhaiáchárá—a term which (we have just seen) is *now* applied to several other forms of village which have this one feature in common, viz. that ancestral shares are of no account.

When we come to inquire whether any one of these different *origins* of joint-villages can be more frequently found than the others, or whether they are represented equally strongly in different localities, I am unable to answer the question fully. The joint-villages in the Benares province, first described in 1795–6, were of high-caste clans who formed landlord bhaiáchárá villages from the first; and so did the Bundelas in the districts about Bundelkhand (Bándá, Jhánsí, &c.).

Where the present proprietary body are of high-caste people, Brahmans, or Rájputs, or of high Muhammadan castes of later accession, it will often be the case that the body owes its origin to a single grantee, or separated member of a ruling family.

Again, in the North-West Provinces the effects of Rohilla devastation and the misrule of centuries, left a large number of villages destitute of all definite ownership, and the present joint-body of owners arose from a comparatively recent owner found for such deserted estates. The same result followed in the early days of our own rule[1]; a very considerable number of estates passed into the hands of auction-purchasers, of revenue-farmers, and others who undertook the responsibility in cases where the original owners had fallen into poverty or decay, and where (if they remained at all) they appeared only as the (now) subservient tenants of any one who would assume responsibility as their landlord. There were also a large number of estates, really deserted and ownerless (k͟hána-k͟háli), overcome by revenue-oppression and other causes; while, lastly, we must not forget the abandoned and waste lands, awaiting, and at last finding, the restoration or new foundation of village estates by the location of cultivators on the part of some capitalist who had the means and energy. When our rule began, unless we found local taluqdárs and Rájá-Zamíndárs—and these we will put aside for the present—in nearly all cases we had to *farm* such villages to a 'mustájir' as he was called, and acknowledge the capitalist who would undertake the management, as entitled to a Settlement.

It is also true that the farming system was at first looked on as the natural one: for those were days when management by an *individual* quasi-landlord was the only kind that entered the official head. Adding, then, these classes together, they make up a very large number of villages where the *old revenue-farmer* crept into the place of *owner*. In the process of time the single landlord is represented by a number of sons or grandsons, who *jointly* claim the same right that their ancestor had, and at first, for some time, remain undivided. Separation of interest is however (in most cases) a certainty after the lapse of some years[1].

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[1] This is quite a special feature of the North-Western Provinces.

The same thing usually happened where any single landlord—a taluqdár, a Zamíndár, a grantee, or any one else—managed to get the actual owner's right. After some generations the family would divide the estate or the group of villages—call the main shares or 'pattís' by the names of the heads of their families: and a century or so would see them blossom out into distinct 'pattídárí' villages of the revenue records; whereupon enthusiastic historians will speak of them as 'primeval bodies, surviving unmoved the fall of empires,' &c.! In this class of villages the *ancestral shares* would, as I have said, most likely be kept up as the standard, although circumstances would gradually produce changes, and in the end we should find that actual holdings were no longer according to the proper shares; and thus a mixture of principles began, which led to the village falling into Class II or III, instead of Class I, of our table (see page 106).

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[1] This origin of village-communities is hardly at all to be found in the other chief centre of village-communities—the Panjáb.

§ 2. *Summary of Origins and Forms.*

In order to sum up shortly what we know of the origin of the now uniformly joint-villages, we may briefly say that they are due—

Never held jointly, but in shares; commonly *not* ancestral, but special; but sometimes ancestral.

(1) To acquisition or founding by conquering or adventuring clans or armies: these sometimes adopted a plan of equal division—true 'bhaiáchárá.' Such villages were nevertheless 'landlord' estates from the first, owing to the proud martial character of the founders. It was the method of sharing, nothing else, that distinguished them from other landlord villages[1].

Sometimes held jointly—often wholly or partly divided—but on *ancestral* shares, which are sometimes perfectly preserved, but oftener have got modified more or less, or even lost.

(2) A still larger class were villages originally of only separate cultivators, but over which a landlord class afterwards grew up: (reducing the old cultivators to be their tenants)—

(*a*) by ancient grant of a Rájá to Brahmans, courtiers, or to scions of his family;

(*b*) by disruption of a ruling house and the members seizing on, or retaining a hold on, particular villages;

(*c*) by the (comparatively modern) growth of a headman or a revenue-farmer or auction-purchaser, who obtained the village and whose descendants now form the proprietary body;

(*d*) similar cases, where the village was depopulated or devastated, and where some capitalist engaged to reconstruct it, and his descendants became the joint owners.

[In any one of these cases, accident, poverty, or misgovernment may have resulted in the almost total loss of the proper shares, and in the village being held according to possession only so as to resemble the class which follows :]

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[1] 1st class is oftenest found to be of the *old* bhaiáchárá form, but *may* also be held on ancestral shares, because the conquering families were relations, or at least of one *gens* or family, and may have allotted the land by the genealogical tree *from the first*. In the Panjáb this is a considerable class. I have no data for expressing an opinion as to its prevalence in the North-Western Provinces.

Held only according to possession — no theory of sharing, ancestral or other.

(3) A number of villages not originally joint—no landlord class existed—have become joint, under our Settlements, by accepting the joint grant of the waste and the joint liability for the revenue. These are now classed as bhaiáchárá villages equally with (1) or the decayed form of (2). When the joint lands are divided, it is in proportion to the original holding or in proportion to the amount of revenue paid.

Some details may now be given about each form of estate.

§ 3. *Zamíndárí Villages.*

Recurring to *the official use of the terms*, it will now be understood how, whenever the estate is owned by *one man*[1] or by several *undivided*, they call the 'tenure' 'zamíndárí.' A village may even at the present day, pass to a single landlord by sale; or perhaps all the shares may die out but one; on the other hand, though not very commonly, a number of co-sharers may prefer to remain permanently in joint enjoyment. For example, suppose that twenty co-sharers, not themselves of a cultivating class, have advantageously let out the whole of their land to tenants; the rents are collected and divided according to the family shares and there is no object in dividing the land; such conditions are quite possible though perhaps rather exceptional.

I have already noted that where there happens to be one landlord, they call the estate 'zamíndárí khális'; where there are several undivided they call it 'zamíndárí mushtarka.' As the latter is the commoner, the idea has become prevalent that zamíndárí implies *jointness*, which, of course, in itself, it does not.

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[1] Single landlord estates may also occur in case a family owns an estate and the descent is customarily by primogeniture. Or, supposing an estate is 'perfectly' partitioned; here the result will be a number of new separate estates, each of which may have only one owner.

But the text-books always use 'zamíndárí' to mean that the village (or estate) is owned by one man, or several (relations) undivided.

§ 3. *Details about 'zamíndárí' (single or joint) Landlord Villages.*

I have not noticed anything peculiar about the management of 'zamíndárí' estates that calls for mention. In one district, I notice traces of a practice also found elsewhere, viz.: that each sharer, suspicious of the headmen whose duty it is to get in the estate-income, will insist on calling on the tenants individually for a share of the rent proportional to his (the co-sharer's) fractional interest in the joint estate. 'The custom is a vexatious one for the tenant, who has often to pay his rent in as many as twenty or thirty driblets[1].'

What with the effect of transfers, and sales in early days of mismanagement, the effect of Rohilla subjection before our days, and other local circumstances and calamities, it is not surprising that a number of the districts should *show a majority of the estates as 'zamíndárí.'*

Thus in BIJNOR we find 79·3 of the villages so classed, and paying three-fourths of the revenue of the district[2]. Of this number, 40·3 per cent. is held by single owners, and 39 per cent. by groups of owners. The larger landlords being here powerful, they manage their estates so as to exact a large series of 'manorial dues,' a curious account of which is given at page 89 of the *Settlement Report.* Something is made out of every trade and occupation. The workers of an oil-press pay a rupee annually, some oil-cake for cattle-feeding, and a little oil. The village 'baniya,' or general dealer, pays a rupee for his shop, and a quarter seer of 'ghí' or clarified butter. The cobbler gives shoes, and the potter earthen dishes; even the shrines and holy places have to compound for shares of the offerings of the pious. Here, too, though custom is the great fixer of rents, which are largely paid—or were a few years ago—in kind, the landlord manages to make a profit, not by altering the customary rate, but by causing the 'seer' for *his* grain to consist of 96 'tolas' instead of 80, or the maund at least to consist of 42 seers instead of 40[1].

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[1] *Allahabad S. R.*, p. 59. I make no apology for repeating that the group may be the sons or grandsons of the original owner; or it may be that the owner has *sold* an "8-anna share' (one-half), i. e. to one man, and a '2½-anna share' ($\frac{5}{32}$) of the estate to another; and so more owners than one have come in, but they have not divided the land.

[2] *Bijnor S. R.*, pp. 72-3.

In SHÁHJAHÁNPUR, some of the tahsíls show a preponderance of zamíndárí estates, but the fact is there due to the increasing subdivision (and separation) of estates[2]. The whole district has 70 per cent. 'zamíndárí estates,' though there is only one very large proprietor.

In AGRA, a similar cause is assigned: here one-third of the villages has become 'zamíndárí[3].'

In FATIHPUR, out of 2145 estates no less than 1555 are 'zamíndárí[4].' This preponderance is due to the number of sales and other transfers in the early days of our rule, which had the effect of throwing into the hands of single families, estates that had once been pattídárí or bhaiáchárá of Rájput and other clans.

In BARELI we find 2611 zamíndárí village-estates out of 3326. This is due to the Rohillas having obliterated all old proprietary rights. 'In Bísálpur alone, so late as the last Settlement and up to 1849, there were no less than 104 villages with no recorded proprietors; and in almost every *pargana* there were numerous villages without proprietors[1],' and when Settlements were made the headmen (or *muqaddam*) were individually made proprietors.

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[1] I may remind the non-Indian reader that the common scale of weights (omitting jewellers' smaller standards of *ratti* and *másha*) starts from the weight of a rupee, which is 180 grains or 1 tola (about 2½ go to the English ounce avoirdupois); 80 tolas make a seer (roughly 2lb.), and 40 seers make the 'maund' or 'man.' Standard weights of this scale are said to be 'pakká' (ripe or full), and country standards varying in a very considerable degree, are said to be 'kachchá' (or 'unripe, raw, imperfect'). The scale indicated in the text is therefore a local weight where 90 tolas ordinarily go to the seer. Of course it is the local variability that enables the landlord to do as he does.

[2] *S. R.*, Tahsil Sháhjahánpur, p. 7; and *General Report*, p. xxvi. I need hardly remind the reader that if a joint village gets *completely* split up in this way, the result is a number of separate 'mahals' (some being entire villages) with the one landlord over each. When this man dies, his sons and grandsons will once more form a joint-body till they, in turn, separate.

[3] *S. R.*, Agra, p. 17.

[4] *S. R.*, Fatihpur, p. 15.

In CAWNPORE 60 per cent. of the estates are zamíndárí, —due largely to sales and transfers extinguishing older tenures, and substituting or providing new landlords.

The *Cawnpore Settlement Report*, page 33 (§§ 88–92) gives a striking picture of the result of the sale laws. It is too long to quote. Owing to incorrect records, and ignorance of rights of proprietors, in 1803–4, when there was a famine, remissions granted never reached the villages, and the estates were consequently put up and sold for default. Násir 'Ali, a 'Diwán' of the Collector's office, bought eighty-one estates; and a tahsíldár bought estates paying R. 50,000 for little more than the tenth of one year's demand!

Sometimes persons actually enjoying proprietary rights were ignorant of their danger, either because their names did not appear as the defaulters, or they did not recognize their own villages in the names of the estates put up to auction. 'Indeed, numerous instances occurred where the actual proprietor was totally unconscious that he was represented as in arrears, or where he had hid away by the advice of the very officer who was prepared to take advantage of the default he had himself instigated.'

Sometimes the result was managed thus: it might often happen that the column in the record, 'Proprietor's name,' was left blank, and only the *muqaddam*—cultivator's headman's—name, or the farmer's who held the *revenue-engagement*, entered in another place. Officials then put their own names, or rather those of some dependant or relation, in the column of 'Proprietors,' and when an opportunity came, they took advantage of the entry.

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[1] *Board's Review*, p. 7 (*S. R.*, Bareilly). And the *Gazetteer* (vol. v. p. 615) notices that 'whatever proprietary tenures exist at all' are zamíndári: in 1849 there were only forty-nine village communities of other kinds.

It is satisfactory to notice that it was in this district that Mr. Robertson, the Judge, made his protest regarding the evils of this state of things to be heard; and that when (in consequence) the Special Commission of 1821 was appointed, 'an enormous amount of good was done on the whole, though many fraudulent purchasers (e.g. Násir 'Ali) escaped scot-free.' Out of 405 estates sold at auction, 243 sales were complained of and 185 reversed.

It was not only official sales that were wrong in those days, for we find that 64 *private* sales and foreclosures of mortgage, were also complained of as fraudulent, and 11 were found bad.

In MURÁDÁBÁD the Government Review[1] notices 'the comparative absence of cultivating communities.' This was the result of the former intestine disorders and the raids the district was exposed to. 'Four-fifths of the estates were in the possession of single individuals, or of small bodies of shareholders, who were in common managing the estates by a representative and dividing the profits according to their (ancestral) shares. . . . .' The villages owned by older communities of other forms, are apparently few, and they are to be found chiefly in the south of parganas Sambhal and Bilárí. In great part the disturbance of old rights is due to the large estates (sometimes revenue-free) held by Sayyids—of whom mention again will be made. These people obtained the full ownership of their villages, and conciliated the headmen, by leaving them with certain privileges or fragments of original rights.

The mu'áfí estates have become much broken up into separate plots called 'milk,' which can hardly be classed as separate zamíndárí estates. Their history is curious, and may be referred to at pages 25 to 29 of the *Settlement Report*.

In ETA, 'zamíndári' estates are the most numerous[2].

In ETÁWA, out of 1813 mahâls 1321 are 'zamíndári[3].'

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[1] S. R., Government orders, p. 5.

[2] *Gazetteer*, vol. iv. p. 76.

[3] *Id.*, p. 333.

In the Meerut (Mírath) division districts[1] I do not find any details given that call for remark; nor in the districts east of Oudh, for North Gorakhpur and Basti were petty kingdoms (Ráj) like the other Oudh districts, and the Rájás becoming taluqdárs, held the villages together, even if they reduced their *status* by their own pretensions.

On coming to Bundelkhand, where the Bundelas had established a sort of kingdom, in later times the communities had been much disturbed. Thus in Hamírpur we find that the estates are now mostly 'zamíndárí,' though instances of the 'bhaiáchárá' village will presently appear.

In Bándá, also, though here the 'bhej-barár' system of the (old or true) bhaiáchárá villages attracted much attention in former years, a large number of estates have *become* 'zamíndárí' owing to transfer to outsiders; the zamíndárí list has also been enlarged by a number of villages being broken up on partition (see p. 117, ante, and note).

In the other districts—now forming the Jhánsí division—it seems that, whether from the effect of the Maráthá rule or otherwise, the villages *were uniformly without any landlord class*, like the Central Provinces and Bombay raiyatwárí villages.

In the Jhánsí district anything resembling a proprietary right was unknown[2]. But it is stated that this condition—the aggregation of landholders without any joint interest—was the result of the decay of a former joint constitution. The original ancestral shares (it was said) had fallen into oblivion, and actual holdings alone were recognized[3]. There was a headman, called 'Mihtá' (or Mihté), like the Maráthá *pátel*, and he had his lands and perquisites of office, here called 'haq-mihat[1].' The plan at Settlement was to make proprietors of the Mihtás, and of all who, as members of the official families, held lands which formed part of the 'haq-mihat.' To these were added all who enjoyed special privileges and perquisites, and all who appeared on the merits to have been acknowledged as 'sharers' in the estates in any sense. All the residue then became 'tenants.' Here, no doubt, the villages would become 'zamíndárí' under the process. Even as it was, there being no natural communities, the creation of proprietors has resulted in a number of small estates, which have since been unable to make way, and have become involved in debt[2].

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[1] Bulandshahar, Meerut, Saháranpur, 'Aligarh.

[2] *Administration Report*, North-Western Provinces, 1872-73, p. 14, § 23.

[3] *Jhánsi S. R.*, 1871, § 340. An attempt was made to draw up a 'phánt' or list of shares, which was all wrong, but was submitted as evidence in some cases in Court and led to considerable confusion. Looking to the locality, as well as to the names of the village officers and the existence of the 'Watan' (under another name) I must, with great respect, take leave to doubt very much, whether this *decay of landlord* shares (very likely to be supposed by a writer enthusiastic about the North-Western system) was a real fact.

In LALITPUR there was the same absence of cohesion in the communities, if they can properly be called such. There were, however, many villages in subjection to local chiefs called Thákurs, who held the villages in jágír. These were acknowledged as proprietors—over the heads of the actual landholders[3], but the original rights of the latter were protected by their being made 'sub-proprietors.' This Settlement was carried out under rules sometimes spoken of as 'Ságar Rules of 1853,' which were afterwards applied to the Central Provinces[4]. The whole district and its Settlement may be regarded as answering to the description given in the chapter on the Central Provinces tenures.

Where there were no Thákurs, &c., the revenue-farmers or headmen[5], as the case might be, were made proprietors.

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[1] *S. R.*, § 31.

[2] This is to be noted as a curious result of the endeavour to create proprietors. In Jhánsi there are no wells; the land is dependent on rain, and each cultivator can barely be sure of paying the revenue on his own field: a person, therefore, artificially invested with the right over, but with the consequent responsibility for, the revenue of a number of such fields, cannot bear up. The so-called proprietors have had to borrow largely to pay their revenueand have become hopelessly involved.

[3] *Lalitpur S. R.*, 1871. The Board's review gives a history of the difficulties and contentions of these chiefs. The Report, § 196, complains of their being incorrectly called taluqdári estates.

[4] *Lalitpur S. R.*, 1871; *Government Review*, § 15.

[5] The *Report*, § 193, says that the headmen were usually the descen-

This was the case with the parganas which had belonged to Sindhia, and those of Bánpur and Maraura which had been confiscated; here proprietors *had to be found.* In all these cases the estates would be called 'zamíndárí' villages. But in some cases where the original landholders had kept up a local bond of connection which could be ascertained, the community was declared proprietor[1]: and in cases where the revenue-farmer or the headman was made proprietor, the members of the original land-clearing families became (as usual) privileged tenants or else sub-proprietors.

The JALÁUN district does not appear to exhibit any special features. There are estates both 'zamíndárí' and of other kinds.

§ 4. *Explanation regarding the Growth of Revenue-Farmers.*

A few words may be added (on another aspect of the question) as to the revenue-farmers and auction-purchasers who originated a number of these tenures.

In tracing back the origin of so many villages to what might be concluded to be an unmitigated wrong or an error of judgment on the part of the first generation of Settlement Officers, it is only doing justice to the past to recognize that the farmers were not always usurpers, nor were they made proprietors in all cases, without reason. They often came to the rescue of fallen villages, the dispirited inhabitants of which had no heart to claim proprietorship; and often they re-colonized, at considerable expense, deserted estates, and brought the waste under the plough. There was really no one else better entitled to be called landlord, at a time when landholding was not the profitable business it now is.

Where *usurpation* happened, it was not so much in the

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dants of the original clearers and founders of the estates ('Jharyákat'). This origin of title will be found to crop up here and everywhere, indicating how correctly *Manu*, in this respect, echoed the old idea of the origin of right in land.

[1] *Government Review* of the *S. R.*, § 16.

process of the revenue-farming[1] of our earliest Settlements as in the unhappy application of the *sale laws*. The *only* idea of recovering arrears—and this was the law derived from Bengal—was, as I have said, to put the 'estate' up to auction. The purchaser would then become the absolute owner, and the village became 'zamíndárí' for him and his sons after him, as above stated. Invited by the system, speculators would procure, by fraudulent means, evidence that a village was in arrears, and it was sold, perhaps without the real owner knowing it[2].

As regards the revenue-farmers or 'mustájirs' or 'sadr-málguzárs' (literally principal revenue-payer), as they were called, Mr. Holt Mackenzie, in 1819, expressed his fear that if *all* rights were not carefully inquired into, 'all will be sacrificed to the "sadr-málguzár," whose interest in the land or the revenue of the land, if left undefined, is so *naturally conceived to be that of absolute or exclusive property*, and whose means of destroying or evading the rights of his "inferior tenants" are so powerful[3]'; and where there were 'Zamíndárs' or taluqdárs (though this applies to farms also), he says: 'Some of the moderate-sized "zamíndárí" estates were doubtless created by successive purchases of individual villages . . . or by the extension of cultivation by means of contract cultivators in districts having a vast proportion of desert waste.' But the origin of others was more questionable. 'He' (the farmer or Settlement holder) 'appears to have engaged in a constant struggle for the extension of his property, and as he generally had the hand of power . . . the various villages in the *taluqa* or farm were too frequently converted by force or fraud into one (single) estate[4].'

Then, again, there was much confusion in early days between 'possession' and 'ownership': a farmer or a taluqdár was in 'possession' in one sense, though there might be owners in possession of the land in another sense. Confusing the two things, a man might get treated as *owner*, when really he had only a limited interest[1].

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[1] Kaye, p. 240, and Holt Mackenzie's *Minute*, § 456.

[2] See the note to p. 22, ante. For a highly sensational case of the effect of the (nílám) or auction sale in 1818, see Kaye, p. 242.

[3] *Minute*, §§ 310, 322.

[4] *Id.*, § 406.

§ 5. *Villages shared ancestrally (Pattídárí.)*

It is surprising how many villages long remained undivided ; but, large as the number sometimes appears from the last section, a still larger number of villages are held *divided*, not a few (apparently) from their first foundation, and others from a more or less remote date, when the family multiplied. However this may be, whenever a village is divided, *and the shares are ancestral or according to the genealogical tree*, the village becomes 'pattídárí,' i.e. if wholly divided, or 'imperfect pattídárí' if some of the land is still retained in the joint state.

As regards the 'pattídárí' villages, which are not merely 'zamíndárí' estates recently divided, but are the result of ancient allotment at conquest, when division of territory was at once made, it would appear that the country was often divided up, first into major groups of eighty-four, forty-two, or twenty-four villages (chaurásí, béálisí, chaubísí). This was probably originally rather a division suitable for the administrative and military purposes of the conquering tribe or army, than with the object of dividing the land as property. But the descendants of chiefs who once ruled over such groups, generally ended by becoming 'proprietors' of villages in the group. Sometimes the division was by 'kos' or square measures of some kind, sometimes by number of villages. Then these territories became further subdivided, and we have at last single village estates, once more divided into shares and sub-shares.

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[1] In § 508 Mr. Holt Mackenzie notices how, when in Bundelkhand there were unquestionably villagers properly entitled as bodies to the right of co-ownership, Settlement was at first made with *one* co-sharer, as superior owner of the whole. (Just what happened in the Bihár districts of Bengal.) In the same volume of *Revenue Selections* (1818–20), pp. 239–40, there is a letter of Mr. Collector Waring, complaining of the practice of one co-sharer selling his individual right, and the astute purchaser becoming landlord of the whole, and reducing the other co-sharers to be his tenants. The Collector proposes a Regulation to prevent the practice.

For example, we read of the territory conquered by the Sarnet Rájá of Anaulá[1], which was divided into groups of eighty-four 'kos.' One such division formed the old 'Ráj' or petty kingdom of Gorakhpur. Another, a (half)-group of twenty-four, formed the smaller Ráj of Hasanpur-Maghar; and there were other divisions held by the younger sons.

In short, wherever we have a case of these (comparatively late) tribal conquests, we always find a very early, if not immediate, allotment and division as the most prominent feature; at first, perhaps, the major divisions—which are really for the chiefs as rulers, and not for proprietary purposes—were alone made; but as the families split up, the division went further and further, and pattídárí villages resulted.

In Farukhábád, I find mention of a 'great estate,' evidently an expansion of an original settlement[2]. Bamiári, in Amritpur, was the head-quarters of a Sombáṇsí (Rájput) clan, comprising 500 members, and holding 18 villages. It is now divided into six main quarters or 'taraf.' The heads of families now reside in their own *taraf* —not in the old 'kherá' or parent site; but they retain ancestral shares in the original locality.

§ 6. *Pattídárí Estates that are the result of subsequent partition.*

But any joint 'zamíndárí' estate may become 'pattídárí' in the course of time. A single grantee, purchaser, revenue-farmer, or man of influence, becomes sole landlord of a village or several villages. When he dies, a number of sons and grandsons may long continue to enjoy the estate jointly without partition; it appears as the 'zamíndárí mushtarka' of the revenue text-books,—and as such is often erroneously supposed to represent the most ancient form of landholding, whereas really it is, in a large number of instances, comparatively, if not positively, quite modern[1]. After a time dissensions break out or other causes supervene, and a separation takes place. In what are called 'perfect pattídárí' estates, the whole village is marked off into major and minor divisions (representing the main limbs, large branches, and minor twigs of the genealogical tree). In many such villages also, it will be found that the origin can be traced back to the grant of the village to some cadet of the local king's family, or a favoured courtier, minister, or religious adviser. The proprietary body of the villages are the descendants of this still remembered chief, who divided at some later but remote date.

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[1] See Beames' *Elliott's Glossary*, vol. ii. p. 51.

[2] *Gazetteer*, vol. vii. p. 105.

The essential feature of *pattídárí* estates, whatever their origin, is that the *shares are fractional according to the law of inheritance.* But in time the actual holdings, by accident, transfer, and so on, cease to correspond with the theoretical share, and then the estate is only 'pattídárí' in name. It is comparatively rare now to find perfectly unaltered *pattídárí* villages; it is also unusual to find the *whole* area divided (perfect pattídárí); a more common form is the 'imperfect' pattídárí, where each proprietor or co-sharer has an area separately enjoyed as his *sír*, or own holding, and the rest is left common, either let out to tenants (whose rents occasionally suffice to cover the Government revenue charges on the whole) or reserved for grazing, or awaiting the time when increasing numbers will necessitate the 'common' being broken up for cultivation.

§ 7. *Method of Sharing.*

In estates where the *ancestral* shares are observed, they are sometimes expressed in terms of real and imaginary *fractions of a rupee*, sometimes, and especially towards the West, in *fractions of some standard of land measure* of which, naturally, the bíghá of Akbar's time is the representative. In either case the ordinary divisions of the actual *rupee* or the *bíghá* would not suffice where the shares are numerous.

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[1] Though, as I said before, the *principle of the joint succession*, which causes it, is really ancient.

Thus, for instance, it will be easy to see that if there are four main pattís, or divisions, each is a 'four-anna share'; which means that each share represents one-fourth of the land total, and also pays one-fourth of the revenue and expenses. But the *pattís* have to be divided further, so that the last division of the 'anna' into 'pies' (there are twelve to the anna) is not nearly enough in the way of subdivision. Further fractions have accordingly been invented, varying according to the custom of the locality.

A single example will suffice.

In Alláhábád we have—

1 rupee = 16 annas.
1 anna = 12 pies
1 pie = 20 kiránt.
1 kiránt = 9 jáo.
1 jáo = 12 toṇd.

In some places the division was carried still further;—

1 toṇd = 12 ráwá.
1 ráwá = 20 til[1].

Such tables exhibit several varieties; but it is obvious that the one quoted would provide a name for the share of the most remote descendant, till practical division could be carried no further.

In the 'Ázimgarh parganas, which have a Permanent Settlement, I notice the only occurrence of the Hindí term for shared villages—'khúntáiti,' from khúntá, a share. In these districts, some of the villages were held on the ancestral plan, or pattídárí, here called khúntáiti; others on the old equal division, or bhaiáchárá plan—here (and in other districts also) called 'bíghá-dám.' In the case of the ancestrally-shared villages, the shares are expressed in fractions of *a rupee*, the scale dividing the rupee into 320

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[1] Here, supposing the village to be 1000 acres, a 'one-anna share' would be 62½ acres, a 'kiránt' share would be a little more than one-fourth of an acre, and so on.

'ganda,' or 1280 'káuṛí,' or 38,400 dánt; this last being equal to 1,152,000 'dátuli!' If such a division is carried far, the ultimate holdings must be exceedingly minute. In an estate of 5000 acres (i.e. where 5000 acres represented the whole rupee) a single 'dátuli' would represent about twenty-one square yards.

In the same way the area measure or bíghá may be divided into the ordinary fractions, the biswá (one-twentieth), and biswáṇsi (one-twentieth of that); and then for the share-table, further fractions would be added. The biswáṇsi or dhar will be further divided into 'reṇ,' and that into 'pheṇ.' And there are other scales.

Under the ancestral-share system, whether part or the whole of the estate is divided, it is no matter what the present value of the holdings in themselves may be; one share may have been so improved that it is worth four times the value of another; another man may have lost half his share by the river washing it away; but the ancestral share, as originally divided, is the only measure of right, and each has to pay his corresponding share of the revenue and expenses.

§ 8. *Partial Loss of the original Share-scheme.*

But here it is that villages held on an ancestral share-scheme show a tendency to merge into the other form where custom or the facts of actual possession, are the measure of right. I have mentioned that there are many cases in which part of the land is held on one plan, while part (not yet divided) is enjoyed on a different principle. In these cases it will usually happen that the profits (derived from tenants' rents) of the common, and the sáir and manorial dues, are all divided according to ancestral shares, while the separate holdings of the cultivated land have ceased to be in any way according to these shares.

Then it is that the *imperfect pattídárí* becomes confused with the *imperfect bhaiáchárá*—some reports speak of them as if they were the same,—affording another instance of the insufficiency of the old classification of tenures. Really, the cases alluded to, are those which form the Class II (page 106, ante). Where the proprietors acknowledge this disproportion and accept it and agree to record the present holdings in the *khéwat* (record of shares), we have a village of Class II (*a*). Where they do not acknowledge it by record (implying a lingering feeling that some day the shares may be restored to the standard), we have a case of Class II (*b*).

In the MUTTRA Report[1], the case of village Mirpur (of Moti-Jhíl pargana) is given, where the proprietors caused their *fractional shares* to be recorded as the *only* measure of their right. But each had a holding in cultivating possession (sír) which did not correspond to the share, and this was said, at the time, to be merely for convenience; nevertheless, in fact, it continued; and now, probably, the possession has gone on so long that it cannot be altered, though the fractional shares will still be followed in other matters of account.

§ 9. *Causes of the loss of the Share-system.*

The circumstances which tend to upset the theoretical shares are various. It may be, for example, that each pattídár has got an equal fourth share divided out on the ground with full consent and as equitably as possible under the circumstances at the time of division. But, subsequently, the conditions have changed, and it is found that one holding has improved in yield and value, out of proportion to the fourth of the revenue; another share, on the other hand, has deteriorated and cannot pay it, while another remains fairly, but only just, able to meet the corresponding share of the charges. In these cases, a wealthy sharer is very likely to pay for the others' revenue, and he takes over part of their land to recoup himself, or they agree to re-apportion the land.

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[1] *S. R.*, p. 44.

Men's talent and capacity for agriculture also vary, and a thrifty shareholder with good land may make so much that he is able to buy up fields from his neighbour in distress.

Another and probably very common cause of change arose in the days when the Government demand was excessive: it required in fact every one to cultivate all he could, in order to keep the village going at all; and so one man's means and agricultural energy being greater than another's, he got to cultivate land beyond his legal share. Still as long as it is recognized that the owner has a special fractional interest in the whole, and his actual landholding is recognized as corresponding to the share of the expenses which he pays, the estate remains pattídárí[1].

The estate ceases to be pattídárí when any fractional share is no longer recognized in any respect or for any purpose. A man has a certain *de facto* holding, and he pays at a certain rate *per* acre on this. If an owner denies that a stated share is the measure of his ownership, the result of such a contention is either a revision of the share list, or the estate has become converted into a bhaiáchárá one, as the term is now used.

§ 10. *Bhaiáchárá Estates.*

When we come to the large class of estates where custom alone governs the distribution, we are brought to a new order of things; and, as I have said, under this term are confused villages of wholly-different origin

We now find under this one official denomination—

(1) Villages in which ancestral shares (probably) once

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[1] In the Panjáb, and I have no doubt elsewhere also, the shares in a pattidárí estate are *very* rarely *purely* ancestral. The days before our rule were rough ones; necessity operated to modify a strict adherence to ancestral shares. The result of confusion and of misfortune was that shares got altered according to circumstances, the weak and unfortunate losing, the stronger and more fortunate gaining.

existed, but have since become lost or seriously modified.

(2) Villages in which there never was any scheme of sharing (as far as evidence goes), and in which each cultivator is separately owner of the fields he cleared: these have now become landlord villages by reason of the grant of the waste, and the joint responsibility.

(3) Villages in which associations of colonists or others originally allotted the land according to the number of *ploughs*, or according to the *wells* and shares in the irrigation.

(4) Villages held by groups of clansmen who have a strong landlord feeling, but who never acknowledged Rájás or chiefs, and had an equal division of land among the original founders instead of any ancestral shares. (This is the original bhaiáchárá.)

In none of these cases (except the first) was there ever a *joint* holding which became several by some form of partition. The allotment in severalty, was made from the beginning, though in some of them the landlord or joint-sentiment was fully felt in respect of the general privileges of village ownership.

The third form commonly occurs in districts where, up till comparatively recent times, there was much available waste land, and bodies of settlers would select a locality and divide the land among their families and dependents. It might be that the families were not connected by any actually known common ancestry—they were not necessarily even of the same tribe. Such families would settle together for mutual defence or society, and would often associate with them persons of other tribes who were good cultivators. Here there was no question of one man becoming owner of a village, leaving it to be shared among his sons and grandsons, who rigorously guarded as their own the ring-fence of the original grant and enjoyed the produce or divided the fields according to their place and share in the ancestral list. When we examine colonies or cultivating settlements of this kind, we find, that each man proceeded by common consent, to cultivate what he can; in revenue phrase 'kásht-hasb-maqdúr'[1]. If he had a larger number of bullocks and ploughs and many stalwart sons, he would take a larger share: but no one regarded himself as owner of anything beyond what he cultivated, though of course he had a right to use the common tank or well and grove, and to have a site in the village 'ábádi' for his house.

Not that all were equal: perhaps some of the associates would have no capital, and in that case they would take a place in the colony such as we should now call a tenant's place—only his position as one of the first founders is marked by the fact, that he pays only for his cultivation what the 'proprietors' pay, i.e. the Government revenue, but nothing in the way of rent besides. Such an associate differs only from a proprietor so far that he has no claim on the lands, if any, which the body has agreed to manage in common, nor has he a share in any fees or profits which may be paid by tradesmen or others residing in the village.

The fourth form, which is the one *originally* called bhaiáchárá, is the most curious. I am unable to explain how it was that in certain clans—especially noticeable during later movements, or adventures—they acknowledged no Rájás or chiefs in a *quasi*-feudal gradation. The families under their immediate heads and elders, allotted the land from the first, aiming at an equal division; and for that purpose they invented curious artificial land-measures, like the 'bhaiáchárá bíghá,' where the unit measure was not an ascertained plot of given size, but consisted of a lot made up of little bits or samples of the different soils—from the best to the worst,—so that all might share alike. It will be observed that in these cases, the bodies who formed the village groups were true landlord-communities; they claimed the entire area, and though equal among themselves, regarded themselves as superior to any conquered inhabitants that they left in possession, or to any dependants and camp-followers of their own that happened to come with them.

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[1] 'The cultivation is according to ability or means.'

The true 'Bhaiáchárá' community generally starts with considerable, and sometimes a very large, area, which is allotted in a peculiar way, and in time gets split up into single villages retaining the bhaiáchárá features.

In all cases the allotment to families of the area fixed on by the colony, may be of the whole of it; but much more likely a portion is left in common for a time. Where the latter is the case, the 'imperfect bhaiáchárá' is, in this respect, like the partly divided pattídárí, and so the books confuse the two.

§ 11. *Illustrations of the Bhaiáchárá Village-Estate.*

All this will be much clearer by considering actual examples found in different districts.

As illustrating the original or ancient principle of bhaiáchárá allotments of territory (page 131 (4)), I will begin with those interesting examples which are found in the Bundelkhand districts. In some cases there were Rájás and chiefs, in others not: but in all there was an allotment on the principle of equality, not by ancestral shares.

When the Bundela tribe conquered the districts, it was to displace settlements of Surkhis and Rájbáṇsis. Chatarsál was then the Bundela leader (about 1671 A.D.), and we find him apportioning out the whole territory in groups; sometimes a village went to a single family[1]. This is what everywhere happened. Either the new settlers ejected existing villagers or reduced them to being tenants, or else (and this frequently) spread over the unoccupied jungle and waste and founded new villages.

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[1] See Mr. Waring's letter of 16th May, 1817, to Board of Commissioners, pp. 239-40 of the volume of *Selections*, 1818 22, and the article 'Bundelkhand,' in *Gazetteer*, vol. i.

In BÁNDÁ district there is a curious account of the village Kotraghát, where there is what they call a 'chákari' tenure[1]. Here the Bundela leader had allotted a tract for the maintenance of some minor chiefs with their troops. It was divided into two main portions—one to meet expenses and pay revenue, the other to support the troops. The latter was at once made into sixty shares, under four 'sirdárs,' each of whom managed fifteen. In another village (Barwá-Ságar) of the same district, Rájá Udit Singh made a grant to the workmen employed to make a great embankment to a lake. Their descendants (the families were located about 130 years ago) now form the proprietary-community.

There are many instances to be found of large areas which are now occupied by villages which have all grown out from one original centre, as the branches of the original settlers multiplied and attracted the necessary labour and capital.

In HAMÍRPUR[2] we read of a large tract (Kheraila-K͟hás) covering 28½ *square miles*, of which only 1090 acres were unculturable. This was all divided up into family lots and sections.

For some reason, which I cannot explain, the terms indicating divisions are inverted; sometimes 'thok' is the major division and 'beri' the smaller: sometimes *vice versa*. In the village spoken of, there were six 'thoks' or major divisions, and these have, in our Settlements, become separate estates. Each *thok* is subdivided into a number of *pattís*. The village of Patárá, in the Hamírpur pargana, contained 9394 acres, divided into 12 '*beris*' (here the major division), and then into 57 '*pattís*.' At Settlement this area was made into 12 separate mahâls. In pargana Jalâlpur-Kheráilá, there were eleven villages, having an average area of 8294 acres, and thirty-four, whose average was 5111 acres each. Effort seems always to have been made to make the 'beris' into separate estates at Settlement.

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[1] *Gazetteer*, vol. i. p. 283.

[2] *Gazetteer*, vol. i. p. 179.

It may be noted that the great village of Kherailá was managed by a division of the area into standard lots—of which presently; a distribution of the revenue over the lots (barár) was made by assessing each at a standard rate, and this 'barár' was maintained up to Settlement. On the division of the whole, three of the '*beris*' still preferred the old arrangement, but the others adopted the Settlement classification of soil and the more detailed schedule of rates, and gave up the old 'barár.'

Mr. Whiteway has given a detailed account of the formation of similar great clan-estates in MUTTRA, of which I give an abstract[1].

On the left bank of the Jamná, the Ját communities form a conspicuous feature. Theoretically at any rate, all the co-sharers are descended from one man, and the original village site or '*kherá*' is still held by many descendants whose lands are elsewhere. These sharers have not divided by taking separate villages, but all are intermingled, so that a sharer will have land in a number of 'mauzas.' In fact, the unit estate consists of an entire taluqa, perhaps containing from four to twenty villages, the sharers having lots in each, and in the original 'kherá.'

Here is a description of one :—

'The ancestors of the present Pachahra Ját land-owners first established themselves in Aíra-Khera, about 200 years ago, where the brotherhood, inhabiting this spot and holding all the adjoining lands, became very numerous. An amicable division of the entire area took place in the lifetime of the common ancestors of Inchráj, Rupál, Sikan, and Bharera; a distinct 'taraf,' or quarter, was allotted as a portion to each of the four sons, according to his wishes or his means of bringing more or less land into cultivation, and the "kherá" was left without any land, but continued in common the property and occasional place of residence of all. The land-tenure throughout, was the "bhaiáchárá" in perfection. All the brotherhood, descendants from a common stock, share in common, and all village transactions, subdivisions, assessments, &c., are effected on [a standard area] a village "bíghá" or "chak" composed of a varying number of "kachchá bíghás" . . . Each *bíghá-chak* was understood to consist of about 300 kachchá bíghás, of the varying classes of soil, so apportioned that the relative value of each chak should be as nearly equal as possible. The proportion allotted to each taraf was as follows:—

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[1] *Muttra S. R.*, pp. 45-47, and at p. 39.

	B.	b.	bís.
Taraf Inchráj	47	0	19
„ Rupál	94	13	16
„ Bharera	59	13	18
„ Sikan	72	15	6
	274	3	19
Kasba Sonai	39	7	19
	311	11	18

'On the same principle . . . partition subsequently took place within each "*taraf*" or quarter. The *panchàyat* of each adopted a *chak* or standard measure of whatever number of bíghás was best adapted to their circumstances (always taking care that the relative value of each bíghá-chak was the same), and subdivided the whole into four or five 'thoks' or mauzas, in each *taraf*, which again subdivided themselves . . . into "naglás" or "pattís" on exactly the same principle.'

The *tarafs* are compact areas, but as regards the four or five villages (thoks) inside them, the sharers have some land in one and some in another, all intermingled, and so with the lands in the subshares or *pattís*. The cause of this is that as each *chak* or lot has to contain an equal proportion of good, bad, and indifferent soil, the requisite bits of each are found—some here, some there—all over the area of the *taraf*.

'In some *tarafs* almost every alternate field belongs to a different one of the four or five villages (*thoks*) contained in it. In others the *pattís* (subshares of *thoks*) are apportioned in long strips[1] of land belonging to each of the different thoks, and then again subdivided on the same principle among the different naglás (or pattís) contained in each thok, and among the different co-sharers in each naglá, and yet with this apparent intricacy, I have hardly met with a disputed field, and not one case which was not readily disposed of by the pancháyat, which, like other bhaiáchárá institutions, exists here in great perfection.'

The individual shares in the pattís or 'naglás' (as they are locally called) are '*khátas.*'

§ 12. *Bhaiáchárá Land-Measure.*

Having thus spoken of a peculiar division of the soil as one of the features of the 'bhaiáchárá' management, it may be well to illustrate it a little further.

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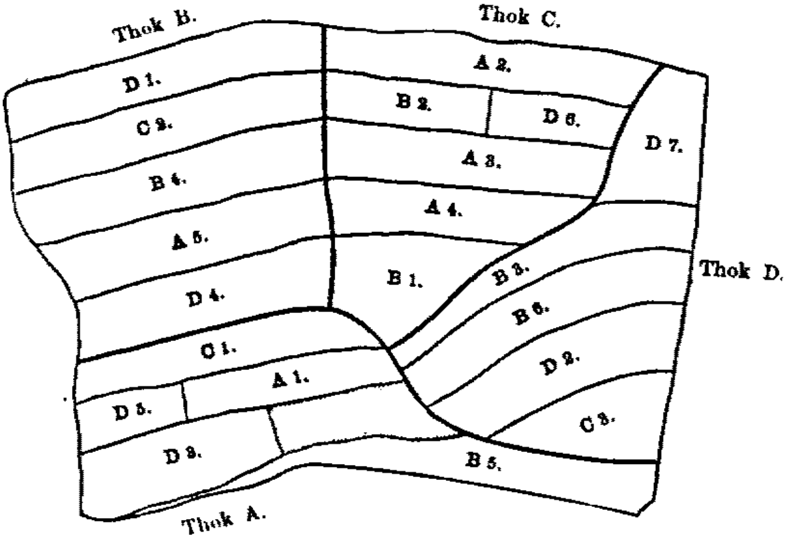
[1] A diagram of supposed (primary) divisions will make this clearer :—



TARAF I.

Here is a 'taraf' divided into four thoks: the longitudinal lines show the division into *patti* or *naglá*. Some in each division belong to the other. Thus—

Taraf I. { Thok A has 5 naglás (A 1-5).
,, B ,, 6 ,, (B 1-6).
,, C ,, 3 ,, (C 1-3).
,, D ,, 7 ,, (D 1-7).

The first notice of it I find is in an early report on the *bhaiáchárá* communities in the Benares province in 1795–96[1]. It is said that 'the brotherhood measure their own holdings by a special measure; thus, while 20 *nals* (or measuring rods) go to one standard bíghá, in the "bhaiwádi bíghá" there are 83 *nals*.' Supposing, then, that the Government revenue, with the village expenses, comes up to R. 350, and the rents and profits of the undivided common lands supply R. 200 of this, then R. 150 has to be made up by a rateable contribution from each of the 'brotherhood'—the proprietary body. By their peculiar measurement, they make out the holdings to be 75 bíghás paying R. 2 each (75 × 2 = 150), whereas really the holdings amount to 300 bíghás, and the payment is only 8 annas a bíghá. The author evidently did not understand fully the custom he was describing. I do not think there is any foundation for his suggestion, that the bhaiáchárá measure was adopted to *conceal* the extent of the holdings and the low rate of revenue, for the old Government authorities who took the revenue, would not care in the least for areas. They probably had no measurement, but a traditional assessment of the village, which they increased from time to time till the figure was as high as could be got in. They cared nothing for how much land each sharer held, as long as the whole demand was paid. Really, the use of the standard measure was to form 'lots' for division purposes, each lot containing some of each kind of soil, so that the shares (and the burden on the shares) should be as *equal* as possible.

In the BÁNDÁ *Settlement Report*[2] I find another plan of artificial bíghás, noted:—

'Instead of the rate of rent [i. e. the amount to be contributed by each sharer] increasing with the value of the soil, the area of the bíghá (the standard measure) increased as the value of the soil diminished; so that instead of, as nowadays, the rent of the best soil being two or three times as great as that of the worst, the 'bíghá' of the worst soil was two or three times as great as that of the best; and in this way the bíghá of the *már*[1], the bíghá of the *paruá*, and the bíghá of the *rákar*, were of different sizes in the same village, but of about the same value.'

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[1] It is given as Appendix E. to Holt Mackenzie's celebrated *Minute*, printed in the *North-Western Provinces Revenue Selections*, 1818–22 (prior to Regulation VII of 1822). See also the subsequent section headed 'Bhej-barár.'

[2] Page 40.

In a bhaiáchárá village, therefore, the public burdens appear to have been distributed in this way: rent was taken from any paying tenants, and the amount deducted from the total demand of the Government, and the balance was then distributed upon the 'bhaiáchárá bíghás' of the cultivation of the year, whether held by co-sharers or by privileged tenants; for most of the latter appear to have paid at the same rates as co-sharers (from whom they seem to have differed chiefly in *status* and in the control which the proprietors exercised over the common-waste and the affairs of the village)[2].

In the artificial measure which the Muttra Report speaks of, every man's holding was a part of a family lot or 'bíghá-chak,' which contained a proportion of each kind of soil. In the Bándá cases, every man paid on a certain number of bíghás, only that the bíghá of the first class soil was small, and the bíghá of the inferior soil was large.

In MAINPURI, the bhaiáchárá estates followed the 'bíghá-chak' division, under the name of the tauzí-bíghá[3]. Here each tauzí-bíghá consisted of a bit in the rich homestead land (*gauhán*), a bit in the middle land (*mánjhá*), and a bit in the least valuable or outlying lands (*barhá*). For example, in village Nasírpur, the 'tor' or 'tauzí-bíghá' is made up of—

25	ordinary bíghás	of gauhán land.
30	ditto	of mánjhá.
35	ditto	of barhá
90		

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[1] These are the usual classes of soils in Bundelkhand, and it is noted that the distinctions of soil are not here obliterated by manure, irrigation, and careful working as they often are in the Upper Doáb.

[2] *Bándá S. R.*, p. 40.

[3] *Gazetteer*, vol. iv. p. 600.

and the whole village is divided into 154·75 of such 'tauzí' lots.

In Faizpur village, again, there are 819 lots, each made up of—

6	ordinary bíghás	Gauhán.
8	ditto	Mánjhá.
10	ditto	Barhá.

24 = 1 tauzi-bíghá.

§ 13. *Result of Plans for equalizing Holdings.*

It was this desire to distribute evenly the varying qualities of land, that has led to the perplexing intermixture of estates which has already been noticed, and will again come prominently before us in Oudh. Where a group of 'villages' represents the tract occupied by a clan or tribal group,—or where it represents the expansion of an original family retaining ancestral shares—for it is true of either—the members of the group often did not take whole villages, or sections of villages, more or less compact; but each taraf or main section only, would be compact, and the pattís would be scattered about all over it. Or, in a single village, the different 'pattís' would have fields all over the village.

An example of this is given in the AZIMGARH *Settlement Report*[1]. Here it is not the mauza or village that is divided into shares, the whole being the property of one group of families, but each estate extends over several villages. One 'pattí' or share of the estate will have some lands in one or two mauzas, another pattí in another mauza, while all the pattís will have lands in a third. Often all pattís will have lands in all the villages. It was necessary, in order to clear up this confusion, to make out statements called 'báchh-bandi,' in which each sharer's lands in all the mauzas were brought together, and the total revenue of the pattí thus shown in one. When there were in any village, proprietors of lands, but not belonging to any of the 'pattís,' they were called 'arázidárs. Where there was not a fixed system of holding, periodical exchange of lands was the custom. This hardly now survives, except in alluvial lands, which are uncertain in their stability. And here, too, it is only occasional, because a common plan is not to divide the alluvial land at all, but leave it to be cultivated in common by tenants or otherwise for the year and dividing the profits[1]. In these districts (which formed the Ráj of Benares, but were not treated as the landlord property of the Rájá in one estate) we find both bhaiáchárá or bíghádám villages—probaby the result of an earlier occupation, and khúntaití (p. 127, ante) or ancestrally shared—which were the result of dismemberment of estates and the growth of new families over the others and among them.

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[1] See § 9 of the *Government Review* (6th Settlement), and *Report*, Chap. III. sec. 5, p. 63. Compare also p. 7 of the present volume.

§ 14. *Method of equalizing Advantage in River-moistened Soils.*

In BÁNDÁ, a tenure called 'pauth' is noted as a sort of relic of the system of exchange of holdings. It has been found even in upland soils, but is chiefly for alluvial soil. Where this class of soil formed the whole or a sufficient part of a village, equality was secured by dividing it in long narrow strips at right angles to the river. Thus each person or family got a portion with all the shades of advantage of moisture from the river backwards; whereas if the division had been parallel to the river, some would get the absolutely flooded land, a few the favoured position where moisture was perennial, and yet no destructive floods came, and all the others would only get the upland. In every part of Upper India, this form of division will be noted. On the upland the fields will be longitudinal;

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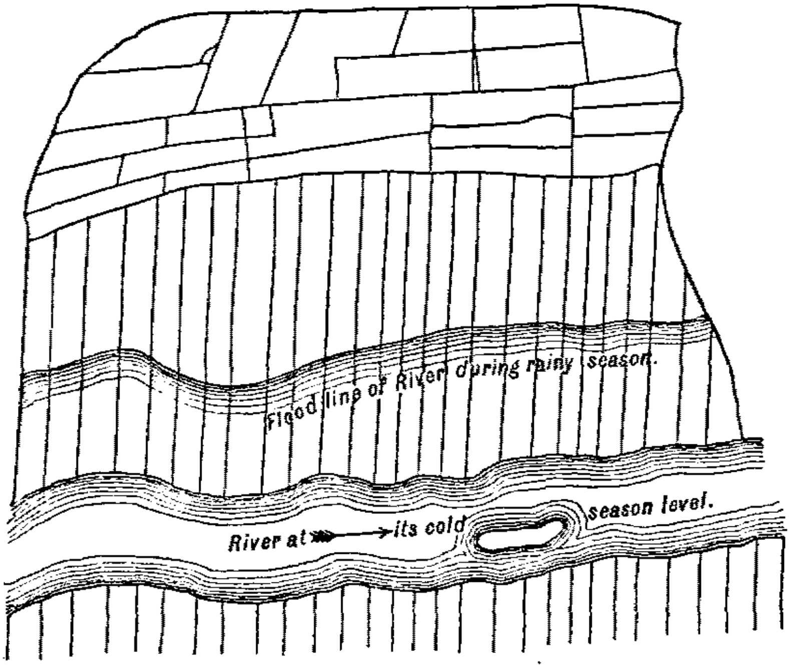
[1] We shall find, however, examples of the exchange in Chattisgarh, in the Central Provinces, and in the North Panjáb. It was a common early method in tribal Settlements, to effect an equal enjoyment of lots so that some should not always have the best and others the worst. In the Central Provinces it was adopted in comparatively recent villages. See Vol. I. Chap. IV. p. 111.

but directly we come within a certain distance of the river,—a line known by experience as that where the moisture begins—the division line runs the other way—thus:—


Flood line of River during rainy season.
River at its cold season level.

But where this moist alluvial area is small and valuable, and not sufficient to divide out among all, then the advantage is enjoyed in rotation on the 'pauth' system. Generally each 'pattí' or major share takes it in rotation, and either cultivates in common, or arranges a pauth, for itself, within the 'pattí.' This rotation may also be extended to tenants who take turns at cultivating the same plot for a year.

§ 15. *Division by 'Ploughs' and 'Wells.'*

Though holdings of land in shares, form the most constantly recurring feature of (the true—or fourth form of) bhaiáchárá communities in the North-Western Provinces (more so than in the Panjáb), they are not the only plan.

In many villages (perhaps indicating the third form) we have instances of the land being divided according to the number of *ploughs* that the original settlers brought to the task of establishing the cultivation; and when the 'plough' had to be subdivided, it was into 'two bullocks,' and each bullock into 'four legs'—and what further subdivision was adopted is not stated[1].

So where *wells* were needed: here the main shares would go by the wells sunk by those who commanded capital and labour. In MUTTRA, a village (Sirpath) is noted, where the division is into thirty-six wells; each well is subdivided according to the 'runs,' i.e. the area to be watered in a certain time; each run consists of four 'bullocks,' and the 'bullocks' are again divided each into four 'legs.'

Division by 'wells,' so common in the Panjáb, where water is the chief requisite, is hardly noticed, except in this one place in Muttra. Similarly, the plough division is a very common 'bhaiáchárá' standard in Panjab districts.

In JHÁNSI, another manner of dividing land is mentioned under the name of the 'kúábádi'-tenure (holding by wells)[2]. Here there are certain areas immediately around the wells, and also outlying fields all over the village, not adjoining, but supposed to belong to, the 'well.' There is, then, no land-measure used, but the assessment is distributed over the wells, and paid by the different groups who have rights in each 'well.' The outlying lands are worked when they can be, and are then left fallow; and they are periodically exchanged between the different cultivators.

§ 16. *Bhej-barár.*

Partly connected with this exchange of lands, but still more with the method of equalizing the revenue-burden, is the system of 'bhej-barár'[3]. It attracted great attention when first observed at the early Settlements, and there is a special report by Mr. Rose, Collector of Bándá[1]. This system is now dying out. It was naturally fitted for a time of changes and heavy revenue-assessments: and when once land is classified, fairly equally assessed, and a good distribution of a fixed revenue arranged in consultation with the co-sharers, such periodical change becomes unnecessary.

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[1] *Muttra S. R.*, p. 45. And compare the chapter on Panjáb Tenures, where the same thing is noticed.

[2] *Gazetteer*, vol. i. p. 281.

[3] Bhej, proportionate share, barár, list of revenue-payments.

It is not, however, correct to say that the bhej-barár plan is confined to Bundelkhand, or that it prevails in all bhaiáchárá villages, and that, therefore, a 'bhej-barár village' is *synonymous* with a 'bhaiáchárá village.' Both mistakes will be found in early reports.

The peculiarity is that the revenue-burden was periodically re-adjusted, and with it the distribution of lands; and if any shareholder became insolvent, his arrears were rateably distributed among the others. Of course, if the share was worth anything, it would be taken over, but a hopelessly insolvent sharer would be relieved as a matter of common liability.

The system also admitted of the return of an absconder when times became better, or even of the admission of strangers; for, supposing that there was land available, the new-comer had only to take up whatever area he could manage, and the burden of the others became so much lighter. All this presupposes a time of heavy revenue-assessments[2]. Supposing three original sharers, each managing 100 bíghás of allotment, and having to make up a revenue of 300 rupees; if they could get six strangers in to take up each 50 bíghás of waste, then, instead of each original colonist having to find R. 100, he would now only have to find R. 50.

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[1] *Selections from the Records of Government*, North-Western Provinces, Part vii. No. 34.

[2] Indeed, Mr. Rose attributes the whole system to this, and speaks of the object being to resist our own early tahsildárs in what was called the 'ek-jái' system of collecting. This delightfully simple mode of getting in balances, consisted in driving all the shareholders in the estate into one place (ek-jái), and then pouncing on any one who happened to be solvent and making him pay up, leaving him to recover from the actual defaulter, or the body at large, as best he could.

'We will suppose,' writes the Collector,—

> 'that the distribution of the revenue has been made (by the consultation of the pancháyat) over the holdings of cultivation. The sharers make a fresh start under an arrangement whereby each has to pay a portion of the burden proportioned to his . . . cultivation.
>
> 'Matters proceed smoothly enough at first . . . but in the course of time, particularly if there is much available waste, material changes take place. One man extends his cultivation, another keeps his stationary, whilst a third perhaps allows his to become waste; and as the division of the common payment remains unaltered . . . the equality of rate on the cultivation, which at first existed, soon becomes lost. Discontent then begins to show itself, and increases . . . until at length the less successful sharers form a party and demand a new distribution of the revenue-payment, suited to their diminished holdings. This demand is at first strenuously resisted by the party who have increased their cultivation, and the contest continues till the appearance of a balance [arrear of revenue], and the dread of a transfer, forces upon all the necessity of making some arrangements whereby the Government revenue demand will be secured.

Generally speaking, an all-round rate was applied to the whole number of bíghás measured and estimated, the bíghás being the artificial lots above described; or sometimes the holdings as they stood, were valued, taking one bíghá of good land as equal to three of bad and so on.

It seems from the old reports that a 'bhej-barár' of this kind was not only confined to bhaiáchárá villages, but was arranged in others where the theory of ancestral shares prevailed.

In some cases of 'bhej-barár,' the distribution of the revenue and the allotment of cultivation were *annual*[1].

The attempt of our early Settlement Officers to make a new 'báchh,' or division of the revenue and stereotype it, in villages held on these terms, was in many cases a failure; and though it is now only a matter of history, the result of attempting too readily to apply European ideas of improvement to Eastern institutions, is instructive. The custom, whether wise or unwise, was one which was understood of old, and was one on which the constitution of the village was based. The Settlement Officer, in striving to fix, for the whole thirty years of the Settlement, the liability of each shareholder, according to the land he actually held at the time of Settlement, no doubt thought he was conferring a benefit and making every one stand or fall by his own exertions; and this principle, says Mr. Rose, 'was diligently instilled into the minds of the people and the native officers, and was literally understood.'

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[1] These are the rare cases in Class III (b), noted at p. 107.

'A statement of his liability was given to each sharer, and he was led to believe that when he acquitted himself of that, he was free from all further demand. Instead of paying through the lambardár (headman) as before, he carried his instalments to the *tahsíldár* (local revenue-officer), and received his own receipts : . . . he refused to pay any remuneration to the lambardár, on the ground that the interference of the latter had not been required. The lambardár, deprived of his perquisites, naturally ceased to concern himself about any interest except his own, whilst the tahsíldár, acting on the same principle, restricted his demand to individual defaulters. The result of this system of administration was that almost every coparcenary village in the district fell more or less into arrear. The (actual) defaulters could not pay. The broken-down shares (pattis) held out no sufficient inducement to strangers to buy or farm them, and the sharers who were solvent, unmolested on account of the balance, never troubled themselves. . . . Eventually, when summoned or desired to make arrangements for the arrears, they produced their (own) receipts and said that *they* had nothing to do with the arrears. They were asked what they would have done previous to Settlement in a similar case. They admitted that, previous to the Settlement, they were bound to make good the deficiency of their defaulting cosharers : but they said, "all that has been changed now," "*tab gáoṅ bhejbarár thá : ab thok-patti hogayá*" [then the village was jointly liable (on the system described) for a rateably distributable assessment ; now it has become a matter of shares and sub-shares, each independent of the other]. The author goes on to explain how the people could not realize that the effect of the Settlement had not been to abolish their joint constitution and responsibility: and it was only when it became actually necessary to transfer or sell up the village for the arrears, and a farming tender was procured, that they discovered their mistake: "and *then* the rapidity with which the balance was forthcoming . . . showed that there was no want of funds amongst the community[1].'"

One or two further instances may be given. In village Bágáhi (Tirohan pargana), there was a body composed of three Brahman landlords (one-half belonging to P, one-quarter to O, and one-quarter to Q), but the cultivating community was a bhaiáchárá of Rájputs, Chamárs, and others. Here proprietors and 'tenants' paid at equal rates (dhárbáchh in revenue-language). Only the proprietors' right was acknowledged by a special allowance of R. 100 which was added to the 'village expenses' and paid to them. Now, about 400 bíghás of the land that the others did not want, was let to outsiders, and the proceeds of this would usually meet the revenue (*plus* expenses *plus* the R. 100 paid to the 'proprietors'); if not, every one paid a rate according to his holding, to make up.

The Settlement officials insisted on recording the village as in three 'thoks,' and drew out an elaborate 'jamabandí' showing the tenants divided between each thok, and making up a rent-roll for each man to pay. Of course the people would have none of it[2].

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[1] *Selections*, No. VII, p. 82. Among the benefits of the old system was its confirming the 'bond of association which enabled the co-sharers to resist intrusion, and so retain their rights as long as any capital remained amongst the community.' 'Amidst the innumerable sales and transfers,' says Mr. Rose, which (this is in Bándá) followed the extravagantly high assessment of the fifth Settlement, and which, after the general introduction of khám tahsil (direct) management, ended in a reduction . . . to the amount of five lakhs of rupees, the peculiarity of the tenures was admirably adapted to enable the old proprietors to regain possession when a favourable opening presented itself: and the sale-purchasers (mushtari) *complained* of Mr. Begbie's reduction, *because*, when the rate was so high, the proprietors were forced to abandon their lands and become cultivating-tenants on the purchaser's lands; whereas now, they were able to return to their own villages, and this caused a dearth of cultivators (!) (p. 83).

[2] Mr. William Crooke, C.S., at the time Manager of the Áwá Estate

Another case given by Mr. Rose is curious as illustrating the *transformation* of tenures, rather than as being directly an example of bhej-barár.

The village Túrá was held by Brahmans; there were three 'thoks,' the revenue engagements of which were signed by three headmen—Bhikam, Lallu, and Prasád. The thoks were subdivided into bhaiáchárá bíghás. In the Bhikam- and Lallu-thoks, the 'revenue' was levied by a barár or rate on cultivation. Prasád's thok got into difficulties; the co-sharers borrowed money from their headman, and gave up their shares, Prasád becoming *sole owner*. Prasád himself then got into debt and sold three-fourths of his right to one Bhadri. Here was a *section* of a Bhaiáchárá village turned into a 'zamíndárí' estate, owned by two joint owners (4 annas *plus* 12 annas).

After a time the two other thoks fell into difficulties, and the sharers borrowed from their headman, who became equitable mortgagee for the amount of his advances; and as such, treated the co-sharers as his tenants. But a settlement of the matter by a *panchāyat* was effected—on terms that each co-sharer should pay up a certain part of the debt and resume his position as co-sharer, paying revenue according to the 'barár.' Under this arrangement, seven sharers (out of nineteen) in one thok, and fourteen sharers (out of fifty-two) in another, had paid up and been restored; the others remained as mere tenants of the lambardárs; perhaps they never paid, and now the lambardárs will have become prescriptive owners.

Another instance is of the village Bambhit: here, as far

(under the Court of Wards), sent me another case: 'In a bhaiáchárí village A's actual holding of fields came to 100 acres, B's to 500 acres, and C's to 250, and so on. So the Settlement record made out the khéwat as if it was a 'zamíndárí' village; and, assuming that B represented say half the village, and C one-quarter, and so on, put them down as 8 anna or 8 biswa, and 4 anna or 4 biswa sharers, &c. This would entitle each to a half or a fourth, &c., of the profits, and when some one found out that his actual acres were not giving him 50 or 25 per cent. of the profits as the case might be, he appealed to the khéwat record and asked for a partition! This, says Mr. Crooke, gave (in Gorakhpur) a great deal of trouble; in fact, a few cases of the kind produced a sort of panic among the tenure-holders.' Happily these mistakes are a thing of the past.

as I can understand the confusing account in the original, the village was held entirely divided (perfect pattídárí) on *ancestral* shares, but in fact, from various causes, the cultivation had got out of all proportion to the shares. Thus one of the sharers, whose ancestral fraction of the revenue was 10 annas, was cultivating 21 bíghás; another, whose payment was R. 4-9-0, was cultivating only 4 bíghás 2 biswas; in other words, the first was paying about half an anna per bíghá and the other about R. 1-2! Seeing, however, that the *form* of the village was *pattídárí* (the first) Settlement refused a redistribution of revenue. At last they agreed to pay by a rate on cultivation—an all-round rate of about seven annas a bíghá. Here the ancestral share was in practice ignored, and the tenure changed.

In the later Settlements, I notice that the author of the *Allahabad Report* (page 59) says the bhej-barár system has ceased to be necessary.

In BIJNOR[1] it is noted that bhaiáchárá estates, locally called lánádárí (láná = an allotment) are only 8·7 per cent of all the estates in the district.

In CAWNPORE, however, the 'bhej-barár' system is not extinct. It is noted[2] that here possession is the measure of right, but the liabilities, as represented by the 'báchh' or 'barár,' are in some villages immutable, and do not bear relation to the extent of land held or to its quality. In other villages a revision of liability and right takes place on the occasion of any considerable change—such as drought causing a large area to become fallow, or a revised revenue-assessment. A fresh 'barár' is then made according to the quality of the land found with each sharer: sometimes each soil has its special rate. Village expenses are divided in proportion to the barár, and if there was any common land or sáír profits, they were divided in the same proportion.

In BÁNDÁ, which was formerly the district where 'bhej-barár' was most frequent, it is now recorded that the old practice has almost disappeared[1]. But it is represented as a simple 'form of property,' adopted where there was no original family-estate resulting in a joint-right based on the ancestral shares prescribed by the law of inheritance. 'The co-sharer had simply the right to cultivate as much as he could,' and for this he paid the quota of the demand due on his fields. 'His interest in the village and responsibility for the revenue rose and fell with his cultivation.' For the convenience of measurement and reckoning, the proportionate value of the different holdings, the 'bhaiáchárá-bíghá,' above described, was devised. I may remark that it is this feature that constitutes the *tenure*, and not the occasional re-distribution which might or might not take place. Naturally, when once a fair assessment, not liable to increase during the period of Settlement, was imposed, and there were also soil-rates capable of being fairly applied—one or other of them—to every acre in the estate, a much fairer distribution could (in most cases) be made, than the old rough and ready bhaiáchárá-bíghá method allowed. In a few cases the people would prefer to make annual arrangements, especially at early Settlements, when our system was not yet familiar, and the assessment probably high or unequal; but the distribution made at a later and more perfect Settlement would gradually be accepted; and the causes which necessitated a re-distribution of burdens would cease. Thus the system dies a natural death.

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[1] *S. R.*, pp. 72-3.

[2] *S. R.* p. 15 (§ 59).

§ 18. *The 'Báchh' from a Tenure-point of view.*

From what has been said about the principles of sharing the profits and the land-revenue burden, it will be seen that not only the record of the shares and their areas, but also the distribution of the assessment, is a very important matter for the due preservation of the constitution of land-holding communities. The burdens are the Government revenue and cesses and the 'village expenses'—entertaining strangers, keeping up the public 'chaupál,' or meeting place, or other public institutions, and so forth. This distribution has already been mentioned in connection with the procedure of a Settlement (p. 70), and is called in revenue-language, the 'báchh.'

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[1] *S. R.*, p. 40.

'The customs of regulating payment of burdens,' writes Mr. Whiteway[1], 'may be grouped under two great heads :—

'I. Those by which the yearly collections from the estate are so regulated that no profits remain [i. e. they only charge on the lands of the body just such acreage rates as, in total, will cover the revenue and other charges.]

'II. Those by which there are profits, which are divided either by ancestral shares or according to village custom [i. e. a full rate is laid on all holdings, and then an account is made out, and the balance to profit is divided.]

'Of the first class the simplest cases are those villages where, at Settlement or revision of records, the revenue was distributed through *thoks* and *pattis* down to *khátas*, either according to ancestral shares, or according to the [relative] value of the land owned. In most of these the common-land is of small value, and on it no revenue is allotted; there are, however, a few exceptions, and cases do occur in which such land has to pay its separate portion of revenue.

'The other and more numerous cases are those where either the revenue is not distributed at all, or merely apportioned betwen *thoks* and *pattis* (the major divisions). In such cases the revenue and expenses are paid by a "báchh" or rate, and according as this rate is levied, the villages may be (further) divided into the following two classes :—

'(1) Those in which all—both tenants in the common-land, and proprietors on their own holdings—pay the same *báchh*, calculated either on actual cultivation, or on the cultivable area recognized at Settlement. In the purest examples of this class even tenants cultivating under a proprietor on land held in severalty, also pay the *báchh*, but it frequently happens that their rent[2], in such cases is governed by contract rather than custom.

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[1] *Muttra S. R.*, p. 42.

[2] Which would be the rate, or báchh, *plus* something more agreed on.

'(2) Those in which the tenants cultivating the common-land pay at fixed rates or contract rates; the balance required to meet the year's revenue and expenses being met by a *báchh* on the separate possession (of co-sharers) recorded in the *khéwat*. In these cases cultivators almost invariably pay at contract rates for land held under proprietors in their separate possession. . . .

'This *báchh* or rate is imposed in a pancháyat of the whole proprietary body. Where the revenue has been distributed on *thoks* and *pattis*, each *thok* and *patti* has its separate pancháyat and its separate distribution rate: in cases where the revenue is common to the whole estate, the *báchh* is the same for the whole. It is usual for this pancháyat to assemble only once at the end of the year to audit the accounts of that year[1]. . . .'

The general procedure at the assembly is somewhat as follows:—

'First, the Government demand, including cesses and the patwárí's pay, is noted down; then the village baniyas (money-lenders and grain-dealers, &c.), and the headmen, produce their various accounts of sums expended on account of the community, and such items are individually discussed, and either passed or rejected. On the completion of this, a total expenditure is struck, and from this is deducted all income from sáír items, and the calculation of the rate then proceeds accordingly to the custom above explained.

'In the second group of villages, where the custom of distributing profits obtains, either the system of *báchh*, in accordance with the above rules, is in force (a certain sum being added to the expenditure for this purpose), or else, as is more common, rent-rates (as opposed to revenue-rates) are collected; such rates may be uniform over the whole village, but generally, lower rates on proprietors' cultivation or severalty land are imposed.'

It will be observed that, strictly speaking, in all really—or still professedly—ancestrally-shared land, the distribution of the revenue-assessment is a mere matter of fractions. Whatever the share by the scale of descent, the sharer has to pay that share whether his land is good or bad, in cultivation or fallow, and whether it has increased or been diminished in past years. But as a matter of fact the distribution may need to be made to correspond with the actual holding.

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[1] In a few cases the account is made for each harvest.

Act XIX of 1873 provides that, after making the village assessment, the Settlement Officer 'in estates in which the land or part of the land is held in severalty, shall distribute the assessment on the lands so held.' This he must do according to the existing law and custom of the estate; and, I presume, he may, on good grounds, adjust the distribution to the facts. By section 47, provision is made for *bhej-barár* estates: the Settlement Officer *may* enforce the re-distribution or re-adjustment, where, by custom, the amount, or the land-holding, is periodically liable to such adjustment. Sec. 46 (cl. 2). Sec. 47.

§ 19. *The Practical Working of Village Community Systems.*

It is not possible to enter into any extended speculation as to the future of the village communities. The tendency is to divide, and for each man to bear his own burdens and take the benefit of his own industry and exertion. The advantages of the system of union and exclusion of strangers, were more felt in times of war or trouble, when defence against a raid had to be continually prepared for, and where common exertion was necessary to bear up against a heavy assessment, than they are now.

The happy pictures of self-governing communities, careless of the world outside, that our books draw, are more visionary than real.

In the ETÁWÁ Report Mr. (now Sir C.) Crossthwaite has remarked on the poverty which results from the extreme subdivision of the bhaiáchárá lots. He says—

'I could find no traces in these villages, which have been styled, without much reason, little republics, of any sort of self-government. The real master is the patwárí[1]. Generally illiterate themselves, they are quite unable to arrange their own accounts, or apportion among themselves the charges under the head of village-expenses, or the profits from common land. The headmen (lambardárs), unless they happen to be men of superior character and intelligence, have little influence, nor is there any vestige, as far as my experience goes, of any village council of elders or pancháyats, for the management of affairs.'

The communities of which this is said are Rájputs, who are not among the best cultivators; their villages are generally bad compared with those of Játs. And of course different parts will exhibit different degrees of success and vitality among the 'communities.' It is well, however, not to expect too much, or to imagine that where there are communities, all is rose-colour. I cannot speak from personal experience of the North-Western Provinces, but there are parts of the Panjáb where this caution is necessary. The bitter family quarrels and local enmities, together with the waste of money over litigation that these quarrels bring about, and excessive subdivision of land, are strongly-operating causes of poverty and stagnation; and that in spite of assessments, which, in minutely subdivided communities, are always, if not very logically, made more lenient than elsewhere.

SECTION III.—REVENUE-FREE HOLDINGS.

There is little in these tenures to call for detailed notice. The distinction between the cases where the revenue is 'forgiven' on land belonging to the revenue-grantee (properly *mu'áfí*), and where the revenue is assigned from land not belonging to the grantee (jágír or 'inám), is not in practice maintained. *Generally*, small plots are spoken of as 'mu'áfís,' and the larger as 'jágír'; and the old meaning of 'jágír,' that it was for the support of troops, police, &c., from the revenue, has, in modern times, ceased to apply. So also the earliest Mughal rule, that the jágír only granted the revenue, not the land, and that it was only *for the life* of the grantee, has not prevailed down to later times. In every jágír, which was once allowed to become hereditary, the grantee had so many opportunities of acquiring the property in the land, that it is now wholly a question of the terms of the grant and of the facts in each case, whether he is or is not owner.

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[1] There is a saying that the patwári is the poor man's teacher—'Gharib ká ustád.'

In the districts more or less under the influence of the Maráthás, we find instances of their plan of levying a quit-rent or charge on the grantee. This is very common in Bombay and Madras under the name of 'joḍi.' It is less so farther north. In MURÁDÁBÁD I notice a curious instance of another impost[1]. In that district the number of revenue-free holdings, continued in favour of influential families of Sayyids, is very large. Many of them now pay a 'nazarána,' which in origin was not a tax or a quit-rent; but it arose out of a habit of entertaining the ''ámil' or Government revenue-officer of the estate, on the occasion of his official visits. The cost of this was rateably borne by the sharers. Some enterprising 'ámil thought of collecting the amount in cash instead of in kind, and then succeeding 'ámils managed to get the cash sum continued as (in time) a permanent customary impost on the estate. On annexation this became a customary due payable to Government. In these 'mu'áfí' estates, whether subject to a nazarána or not, the Sayyid grantees also *became proprietors*, reducing the original villagers to the grade of tenants, but granting a peculiar privilege to the headmen (so as to conciliate them and get their services). The mu'áfí estates have split up into a number of separate plots of greater or less extent, described as 'milk[2].'

In the JHÁNSÍ division, we have what is called the 'Ubári' tenure, and grants spoken of as 'Haq-Thákurán' or 'batotadár.' This arises out of the old Rájput organization as affected by Maráthá revenue arrangements. Just as we have seen part of the country (of Bundelkhand) allotted out by (so-called 'republican') Rájput clans, so Lalitpur became the seat of a number of Thákurs' or chiefs' feudal estates or allotments. When Sindhia took the country, he kept a portion for himself (as the Rájá or head chief), and this led to fighting and disputes about the Thákurs' rights. At last an arrangement was made by which they got lands to yield them 'batotá' or share of the revenue. When the lands properly available were not enough to supply the full *batotá*, the chiefs got lands all about the district to make up the area, called 'Chír.' Where the lands held were more than enough to cover the *batotá* the surplus was subject to the 'ubári' or quit-rent assessment. So that now, the Thákurs' estates are 'jágír,' entirely revenue-free, or 'ubári,' (subject to payment of a quit-rent) as the case may be[1]. The original Thákurs are now replaced by numerous descendants who have divided the estates into shares, and are (or have become) the actual owners of the soil in many villages; where this is the case, the villages are 'pattídárí'—a history like this probably being true, in one form or another, of most pattídárí estates.

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[1] See *Government Review* at the end of the *S. R.*, p. 5.

[2] See *Murádábád S. R.*, pp. 25-26.

In connection with 'jágírs' I may mention that I have been on the look-out to discover, in the North-Western Provinces proper, any traces of the system which we shall find so common in Central, Western, and Southern India, of rewarding the village servants by small revenue and rent-free plots of ground,—constituting the 'watan' or hereditary emolument of their 'office.' But only in the *Allahabad Report* (page 63) have I found mention of the 'jágírs' of village servants.

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[1] See the *Gazetteer*, vol. i. pp. 352 3.

SECTION IV.—TALUQDÁRÍ OR DOUBLE TENURE.

I must now turn to the other classification of tenures, according to which we regard the grades of interest which exist between the Government and the actual cultivator. There are many cases[1], where, besides the village body as proprietor, we have a second proprietary interest between the cultivator and the State; where this is the case we have the taluqdárí tenure.

There can be no doubt that in some of the districts, especially those which formed part of Oudh, there were Rájás of Ját and Rájput origin who, by conquest, had obtained the lordship over parganas or other considerable areas of country. In some cases nobles of Muhammadan races were in a similar position. But the result has not been, as it was in Oudh, to develop, generally, a powerful class of 'taluqdár' landlords. From an early date, in the North-Western Provinces, the policy was to regard the overlords as intruders who had often obtained their position, and had annexed and subordinated the village proprietors, by more or less questionable means; perhaps sufficient attention was not paid to the long time during which the possession had prevailed; but however that may be, great attention was paid to resuscitating the village bodies, so that the overlords were most generally set aside with a title and a cash allowance, and the Settlement made direct with the villages. In some cases, no doubt, the Rájá or taluqdár had attained such a position that he was acknowledged as the superior proprietor, and was settled with; and in such cases the villages were protected by a sub-Settlement, or 'mufassal' Settlement, as the Regulation called it.

The double tenure is spoken of as 'taluqdárí,' not because there was always a defined grant called 'taluqdárí,' nor because the superior proprietor was always a 'taluqdár,' but because the state of things is most analogous to the properly so-called taluqdárí tenure of Oudh, and because the term 'taluqdár' is essentially indefinite, and covers almost any variety of superior position, in virtue of which some person got the management and the revenue-collection and responsibility into his hands, and so may have succeeded to a kind of proprietary interest in the estate.

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[1] See vol. i. chap. iv. p. 191 seq., and vol. ii. p. 101.

The actual position found to exist at Settlement, would naturally be different in different cases; and the 'taluqdár's' degree of connection with the estate may vary from one closely resembling the direct proprietorship, to that of a mere pensioner on the land, who receives a certain allowance, but exercises little or no interference with the actual management. Under the North-Western system, it was left to the Settlement Officer to recommend, and to the controlling authorities to determine, whether the Settlement should be made with the 'superior' as the real landlord, or with the original body,—granting the superior a cash allowance, paid through the treasury. Speaking generally, it may be said that in the North-Western Provinces it has been the practice, wherever possible, to prefer the joint body of village owners, making them full proprietors, and buying out, as it were, the superior, by giving him a cash 'málikána' or 'taluqdárí allowance' of 10 per cent. on the revenue.

It would appear that the taluqdárí cases occurring in the 'Aligarh District (Settlement of 1834), especially the case of the Rájá of Múrsan, were the 'leading' cases on which the policy of Government was shaped.

The principal orders on the subject were issued in January 1844, on a reference by the Board in 1843. Mr. Thomason, the Lieutenant-Governor, ruled that 'taluqas' were 'estates' contemplated by section 10 of Regulation VII of 1822, where 'several parties possess separate heritable and transferable properties in parcels of land, or in the produce or rent thereof, such properties consisting of interests of different kinds.' He laid down that the rights of the taluqdár were 'supervenient' to the rights of the village bodies. There was to be a judicial inquiry into each case, with an ultimate resort (if needed) to the civil courts. These orders were modified by the Home Despatch of 2nd August, 1853[1].

The taluqdár was allowed 22½ out of every hundred rupees of revenue collected; and this was a fixed allowance for the term of Settlement, according to the arrangements made at the Settlement previous to 1844. This allowance represented 18 per cent. on the assets:—i. e. the gross assets were shared in the proportion of 62 to Government and 38 to the proprietors. Of the latter figure, 20 per cent. went to the village owners as their profit, and 18 to the taluqdár. After the Settlements expired, the taluqdárí allowance would be fixed at 10 per cent. (as above stated), in accordance with Regulation VII of 1822.

In the *'Aligarh Settlement Report* will be found an account of the taluqdárí tenure, attributing the principle of Settlement to Mr. J. Thornton in 1834[2]. Here the local Rájás were settled with on this principle, though in some cases the assessment was so fixed that the 'inferior proprietors,' or *biswadárs*, had to pay an assessment which covered not only the Government share, but also the *taluqdárs'* málikána or allowance, and this proved their ruin.

The first Settlement in 'Aligarh has been criticised by those who thought that the Rájás had acquired a position much above that implied by their being 'hereditary taluqdárs,' entitled to nothing but a certain percentage on the revenue. The pargana Múrsan of this district was, as I have said, the 'leading case.' The Rájá was a Ját, and had acquired his overlordship by conquest and subsequent annexations and sales. At first he was settled with on an 'istimrárí' lease[3] for life. The villages of which his

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[1] Given in Mr. Carnegy's *Notes on Land-tenures in Upper India* (Trübner, 1874), p. 94.

[2] See *Gazetteer*, vol. ii. pp. 450–452.

[3] Istimrárí means 'continuing,' not liable to revision; such grants were often made for life, and there is nothing contradictory in this as Mr. Carnegy supposes.

The whole details will be found in Mr. P. Carnegy's *Notes on Land-tenures, &c., in Upper India*, p. 71. The writer severely criticises the action of the North-Western authorities, but he seems to be quite unaware that there are two sides to the question; and the fact that very right-minded and emiestate was composed had been acquired—some 140 years, some 30 years, some only 9 years—before British rule began (in A. D. 1803).

Mr. Thornton considered that a number of these transfers had not been effected in such a way as to deprive the village owners of their right to management, and to be settled with. The estate comprised 300 villages. Of these one-third were declared the property of the Rájá, and he was settled with as the landlord or 'Zamíndár'; while in two-thirds the villagers were settled with, the Rájá being allowed an allowance from the treasury as 'hereditary taluqdár.'

In GORAKHPUR, the *Settlement Report*[1] describes real 'taluqdárí' estates held by various Rájás. Under them were found people in possession of proprietary rights in the second degree. As in Oudh, these were usually the rights created or confirmed by the grant called 'birt'; some were cases of 'jewan-birt' or proprietary holding granted for livelihood or support (jewana) to the younger members of the Rájá's family; others were 'murchhbandí birt,' grants made on condition of service and keeping order on the borders; and 'sankalp' made to religious persons or institutions. There were also many 'birtyás' (holders of birts) created (as was so common in Oudh) for the purpose of clearing waste or resuscitating old cultivation. But in those places, the North-Western Provinces' principle being such as I have stated, the birtyás were made proprietors, and the Rájá was not maintained as landlord over them, but merely as the proprietor of his own 'sír,' 'nánkár,' and other lands held by him (under the local name of 'taufír'), and with the usual 10 per cent. as málikána, or commutation for superior rights, besides. The same is

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nent men supported the policy of settling with the villagers and putting off the 'Rájás' with an hereditary percentage allowance, might have induced him to consider whether the case was altogether so indefensible as he represents it. There is no doubt, however, that the question was one of a strongly-felt *policy*, and it is very likely that there was a disposition to ignore the overlords, in a spirit quite unlike that which in Oudh, led to their being recognized as proprietors in full.

[1] *S. R.*, vol. ii. p. 60.

noticed in some of the parganas of the Cawnpore district[1]. In these cases, however, what was left to the Rájá constituted in itself a very large property.

In AZIMGARH there is also mention of another kind of double tenure; here there was no Rájá, but the powerful families who had become the joint-owners of the villages, possibly by grant of some former Rájá, had in their turn, granted 'birts' to the descendants of the former and long-ousted owners who had originally cleared and brought the estate under the plough. These grantees are locally called 'mushakhsidár.' Sometimes they were settled with as proprietors, but sometimes, owing to the arrangements of former Settlements, only as *sub*-proprietors[2].

In the MUZAFFARNAGAR *Report*[3], I find an excellent illustration of taluqdárí tenures. The distinctive feature of the local history is the rise and decay of a powerful Muhammadan clan, known as the Sayyids of the Bárhá. Settling in the south-east of the district several generations before the time of Akbar, they rose in many instances to great eminence in the Imperial service. Their lands increased with their palace influence and their repute, and before the downfall of the Mughal Empire they had acquired by grant, purchase, or the voluntary acts of the village communities themselves, most of the western half of the district. The Ját and Tagá brotherhoods, in the decay of the Empire, were glad to purchase protection by 'commending' themselves to a strong Sayyid house. The Sayyids, as a rule, left the village communities thus put under them, to manage their own affairs, contenting themselves with levying the revenues through the village headman or '*muqaddam*.'

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[1] See *S. R.* (1878), p. 43.

As an instance of how difficult it was sometimes to tell whether a local chief had in fact acquired such a position that he fairly ought to be called 'proprietor,' I may mention the case of the Chandel Rájá of Sheorájpur (Cawnpore District). In 1818 his position came into question. In 1833 it was thought he was proprietor, and a Settlement was made with him, and a sub-Settlement with the village bodies who had become subordinate. (In these reports I notice that the term 'muqaddam' is used not merely for the headman of the subordinate village families but for all the co-sharers, just as in Central India every co-sharer is addressed as 'patel' though the title belongs properly only to the heads of families.) In the end this arrangement was upset; the Rájá was treated as owner only of his own ancestral estate, and the villagers were recognized as owners, and so of course at once acquired a transferable property. As soon as they got this, the Rájá executed against them court decrees he held for debts and arrears of rent, and promptly bought them up! (*Cawnpore S. R.*, p. 43.) (*Gazetteer*, North-Western Provinces, vol. vi. 125.)

[2] *S. R.*, § 305.

[3] *S. R.*, *Government Review*, p. 4, § 13.

The account, which is too long to quote, goes on to show how the power of the Sayyids was broken, in the second half of the eighteenth century, by some Gújar chiefs who established themselves, and by inroads of Rohillas, Sikhs, and Maráthás. On the establishment of British rule, the Sayyids returned from exile, and the first years of the century 'witnessed a desperate struggle between the Sayyids, the Gújar chieftains, and the village communities, for the ownership of the soil.'

In this case, it would seem, the expedient of adopting the 'taluqdárí' tenure was not applied. The Sayyids became direct proprietors of two-thirds of the eastern part of the district and lost all other rights[1]. This accounts for the very large number of *occupancy*-tenants, who are, in fact, the real old proprietors.

§ 1. *Illustration of the growth of Taluqdárs.*

As regards the process by which a 'taluqdár' chief, or, on a smaller scale, a revenue-farmer of lesser pretensions, may *grow* at the expense alike of still older taluqdár families and the village communities, an actual example from real life, will be more instructive than any comment of my own. I therefore quote the ALLAHABAD *Report*. As to the district generally, the Settlement Officer remarks:—

'It was, however, reserved for the system employed in the first years of the British administration to put the finishing touches to the rapid disintegration of the old families which had been so successfully commenced by the Muhammadan conquerors. In the first triennial Settlement, concluded the year after cession (1801), farming engagements were taken in lump sums by *parganas*. The farmers had to find adequate security in the shape of sureties. . . . This system resulted in putting the whole district at the mercy of the sureties. The farmers were merely their creatures. One Bákir 'Alí, an ex-'ámil of Kára, was surety for the parganas between the two rivers; Deokinandan stood for the west-trans-Ganges parganas, and the Rájá of Benares for Handia and Arail.' [K͟hairágarh and Bára were under Rájput chiefs, as we shall see.]

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[1] The *Review* notes that 'through extravagance, indolence, and litigation, they have lost one-half of this.' Much of it passed into the hands of the trading-classes. *Now*, the eastern tract is owned in nearly equal parts, by Sayyids, old village communities of Játs and Tagás, and by the trading-classes.

'We have authority for saying that, by their exorbitant demands and other kinds of pressure, these sureties succeeded in ousting the old proprietors[1] and between them, in obtaining possession of property paying upwards of six *lákhs* of annual revenue. Attempts were subsequently made by the appointment of a Special Commission, in 1821, to remedy this deplorable state of affairs. Some of the alienations were declared fraudulent, and the property restored. . . . But it was not possible to do much.'

Now, let us trace further the history of pargana Bára in this district[2]. I shall give it in some detail, because, incidentally, it furnishes quite a little treatise on Revenue management, introducing by the way, several other points besides the principal one. Originally occupied by Bhár tribes, who apparently had attained some civilization, the country was conquered by Rájput clans, who expelled the Bhárs and formed village communities, as usual, in the process of time. The pargana came under the protection of the neighbouring Rájá of Ríwáṅ (Bághelkhand). Besides the Rájputs, the official accountants (Deslekhak), by caste Kayaths, had (of course) obtained estates, and (equally of course) pious grants were made to some Brahmans. But a member of the Rájá's family (one Pirthí Chand) got a revenue-free grant of ten villages (no right, originally, except to the 'king's share,' and such other dues as the king took). Starting from this basis, the grantee (or his descendants) proceeded to 'absorb' the entire pargana. First, he persuaded the Rájá to 'grant' eleven more villages 'to sustain his state.' Then (as it seems he was employed to collect the Rájá's revenues for him over the pargana at large) eleven *more* villages 'were granted' for services rendered. Having thus got a firm footing, he proceeded to set up as independent of the Rájá, and to possess himself (and his family) of other villages. In some cases he had stood security for the revenue to the Rájá, and when default was made, he of course seized *those* villages. He also granted loans, and when they were not repaid, seized the land. Next, force was tried; villages were boldly attacked and conquered—not always without fierce fighting. Then some of the other villages, held by rival castes or clans, were at enmity; the dispute of course was duly fomented until a fight occurred, with the result of the Pirthi Chand family seizing the villages of *both parties.* To this day in one village, a well filled with boulder stones (by way of blockading the village), may be seen, as well as monuments ('chaurá') erected in memory of the slain.

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[1] These were Rájputs of the earlier conquests, Sayyids, &c., of the time of Jalaluddin Khiljí (fourteenth century), and later Patháns (seventeenth century). *S. R.*, pp. 50–1.

[2] Taken from Mr. Temple's Report (1850). No. XV. in the *Selections from the Records of Government*, part XXIII. At present Bára contains 292 villages.

When the district was ceded to the British (1801), Lál Bikramjít (a descendant) was found in possession as 'taluqdár' and *soi-disant* 'landlord' of the whole. All this had happened, as far as I can gather, in the course of a century or so before our rule; so that by 1801 the family must have had the prescription of at least 100 years for their 'possession' generally. Here was a question—ought such a man to be recognized as *proprietor?* He certainly was landlord *de facto*: still the authorities were desirous of treating him as 'superior proprietor' only, and making what they called a 'biswadári Settlement,' i. e. giving the superior a money percentage, with certain other rights, and settling with the holders of the land (biswadárs) in the villages. But it was found that the old rights had been so completely ousted and destroyed in most cases, that they could only find thirteen villages with the descendants of the old families in possession; and only nine of these who were not so completely tenants of the 'proprietor' that they could be settled with. And when, in 1848, it was further determined that some of the villages should be recognized as held on the 'muqaddami' tenure, i. e. held by the *heads of the families* who had shares in the villages, such rights could be established in only two cases, in favour of original (Rájput) holders; the rest were recognized on the ground of prescription during British rule[1]. Where not even this claim existed, the Settlement was made with farmers called 'mustájirs,' who in time became proprietors. This narrative ought to be commended to some writers who are fond of repeating the *indiscriminate* charge that we converted tax-collectors into 'proprietors.'

But now we come to the phase of the history which illustrates our immediate subject. It was in the time of the grandson of Lál Bikramjít, whom we may now call '*taluqdár*.' He failed to pay his revenue, and the Nawáb of Oudh promptly expelled him in favour of a person who offered to pay, viz. the Rájá of Manda (in the next pargana of Khairágarh). The grandson fought a battle, but was defeated. Then he petitioned at Lucknow, and in 1799 got reinstated, but on a promise to pay (of course) an increased revenue (it was nearly doubled). Just before the cession (1801), it seems to have been the fashion to raise the revenues all round so as to make the districts look as valuable as possible[2]. The revenue of the pargana was therefore still further raised. The taluqdár again failed to pay, and in 1802 the 'pargana' was sold, this time to the Rájá of Benares. The Rájá, being a wealthy capitalist, developed the pargana largely, spent money on it, cleared the waste right and left, 'and in some localities,' wrote Mr. Temple, 'to such an extent that the rents of not a few villages were tripled, and even quadrupled thereby[1].' He also made extensive improvements in irrigation facilities. His land agent, one Sheo Rám, Mr. Temple says, 'is gratefully remembered by the people.' Arrangements were made with the tenants every three years, and when any defaults occurred, they were not sold up and driven away, *but made to pay up by degrees.* 'By these measures the Rájá (by the year 1820) had raised his pargana rent-roll from R. 1,10,000 to R. 2,32,000. Concurrent testimony declares the people to have been, during this period, far more prosperous and contented than they had ever been before, and quite as much so as they have since been.'

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[1] The titles were all derived from the taluqdár, as rent-free gifts, grants for feudal service, direct location by the taluqdár, direct submission and acknowledgment of his rights, and holding in virtue of blood-relationship with the taluqdar.

[2] The student of History will recollect that the cession of all the Doáb districts was made with a view of yielding a revenue of an amount stated, which would pay for a British force to defend the Nawáb (or King as he was then called) of Oudh.

It appeared, however, that the sale to the Rájá had been obtained in a questionable manner. The son of the ousted taluqdár brought a suit to recover his estate, and the case was referred (in 1821) to the Special Commission which I have mentioned as being appointed to inquire into fraudulent sales under the revenue law. It transpired that the default which led to the sale was not a real default, but had been brought about by intrigues of some of the native officials (*'amlá*) with some persons who wanted to get the estate for the Rájá (the latter nobleman himself probably knowing nothing about the proceedings). The Rájá naturally appealed to England, and in 1827 the pargana was ordered to be held (by Government officers) under attachment, pending the result of the appeal, and it soon came under the Court of Wards owing to the mental incapacity of the taluqdár whose suit had been (so far) successful. Meanwhile Settlements were made under Regulation VII of 1822, and on the revised plan under IX of 1833, with the general result that the greater part of the pargana remained taluqdárí; but a number of the villages were recognized as having sub-proprietary rights under the taluqdárs. Some villages were not found in the possession of anyone, so they were *farmed* to 'mustájirs,' persons who, on security, agree to pay a certain revenue on the village[1].

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[1] Another lesson for those who are fond of laying down rules about improvements. Here is a man with no very certain tenure, and no 'permanent' assessment of his revenue, making large improvements, showing how much more the matter depends on the man, his energy and character, than on rules and principles.

I have not found the history of this pargana traced in the last Settlement Report. It is clear, however, that the Benares Rájá did not gain his case on appeal. The principal proprietor is now a Baghel chief, Banspat Singh, with the title of Rájá of Bára[2]; and he is not full landlord (as he would have been in Oudh), but 'superior proprietor' of 140 estates out of 292 villages (forming 350 estates or mahâls); and 153 are held by other owners on zamíndárí tenures—only 48 representing 'pattídárí' estates, and 9 bhaiáchárá[3]. It is probable that all the 153 zamíndárí estates are due to Settlements with farmers, or purchasers, or with some person who may originally have been *one* among a body, having equal rights, only that he managed to get recognized (under the circumstances of the case), as sole 'proprietor.'

SECTION V.—TENANTS.

§ 1. *Tenants: their position.*

What has already been said about the gradual overlaying of the original interests in land, will have prepared the student to understand that even when all the rights of persons who are in some degree *proprietors* are adjusted, and their shares and customary privileges protected by record, there still remain the interests of the *tenant* class to be considered. Tenancy,—that is, the holding of land under a proprietor—is in these provinces not always a simple thing. We have here, as so often elsewhere, not merely to deal with tenants whose position on the estate is due to *contract*, but with persons who—perhaps for want of a better name—are called 'tenants,' but who were once owners themselves, and at any rate owe their position to no process of letting and hiring, but to circumstances which have reduced them to a subordinate position.

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[1] In ordinary estates such 'mustájirs' in time become proprietors, and then their families give rise to a zamindárí or 'pattidári' village community (see pp. 112, 122). But in the case described above, the taluqdár himself would be recognized as direct owner of such villages, the farmer being at most a sub-proprietor.

[2] He owns about half the pargana. Mention is made of one Manohar Dás, who was the purchaser of the rights of the Bára Rájá. Perhaps this accounts for some of the 153 mahâls not owned by the Rájá Banspat Singh, but noted as 'zamindárí.'

[3] *S. R.*, § 28, p. 58.

In many cases it was no easy task to draw the line between one class and the other and determine whether a particular group of cultivators was most appropriately classed as 'tenant' or as 'proprietor.'

In the present section we suppose the distinction to have been made; we exclude those persons who were regarded either as proprietors of their individual fields (arázidár, &c.), or who became proprietors in the 'inferior' or secondary grade in the taluqdárí tenures. These persons have (except a rare limitation may be found) the full right of alienation; no demand can be made on them beyond what is fixed at Settlement—so much to the State, so much to the 'superior' proprietor. No doubt it was to some extent the particular policy, or the particular views prevailing at the time, or the fortune of circumstances, that determined whether a man should be recognized as a 'proprietor of his holding' or 'inferior proprietor,' or whether he slipped into the somewhat lower grade of 'occupancy-tenant.' In Muzaffarnagar, for instance, we noted the case of the Sayyids, who gained their villages as owners (under other circumstances, they would only have been taluqdárs); so that the old village bodies became merely tenants, though of course with rights of occupancy. However that may be, the line *was* drawn; and here we are only concerned with those who come under the Rent Law as *tenants*. To this the only possible exception is the case of the 'intermediate holders' of land provided for in Section 4 of the Rent Act (XII of 1881)[1]. The Act does not call them tenants expressly, though it speaks of their *rent*, and provides that if their interest is permanent and transferable, and is intermediate between the cultivator and the landlord, that 'rent' is unalterable.

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[1] I speak further of this (the existing Act, at a later stage. I shall explain how the first law was Act X of 1859 which was superseded by

Including these however as tenants, they and some others form a class *naturally* entitled to occupancy-rights[1].

§ 2. *Tenants at fixed rates.*

Act XII of 1881, sec. 5.

In this class are the 'tenants at fixed rates.' These are found in permanently-settled estates, where the proprietary right was more or less artificially conferred, and where some persons who might have justly been considered co-sharers, were in fact called tenants. As it is, their protection, both in their possession and in paying an unalterable rent—in fact, extending to them the benefit conferred on their superiors, is obviously just. They have, since the date of Permanent Settlement, paid at the same rate; and as this long period is difficult to account for in strict legal proof, a presumption is (as usual) raised by law, that if the rate has been paid for twenty years, it has (unless the contrary is shown) been so paid since 1794-5. The reader who has read Vol. I and the sections on Bengal tenants, will be quite familiar with the 'raiyat at fixed rates.' This, that we are speaking of, is practically the same thing, under the Permanent Settlement of the Benares districts.

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an Act in 1873 and then by that quoted.

[1] In the *S. R.* of Azimgarh (permanently-settled parganas), § 95, the class which is difficult to define as 'tenant,' is spoken of distinctly as 'sub-proprietary.' There are whole villages held by persons who, under encouragement, settled the waste, and received a promise that nothing beyond a fixed rent (or revenue?) demand should be made; they are called 'mushakhsidár' villages (Arabic = fixed or appointed). Where single plots are held by persons of note as grants now or formerly revenue-free, the holding is that of an 'arázidár,' also spoken of as a 'sub-proprietor.' Such cases come under Section 4 of the Rent Act.

§ 3. *Tenants at Revenue Rates.*

There are also privileged tenants of a class nearly resembling this, but whose rents change only when the revenue is revised. As noted in the Bándá *Settlement Report*[1]—and the same is true wherever *bhaiáchárá* communities exist—tenants are found on the estate, probably dating back to the foundation, who have always paid the rates of the 'dhár-báchh' or the 'barár'—i.e. the general rate imposed on all cultivation to meet the Government revenue demand. Such privileged tenants are clearly, by custom, neither liable to removal nor to enhancement—except the revenue itself is raised,—when they will pay as the co-sharers pay. In fact, they only differ from proprietors in this, that they have no voice in the management, nor right to other profits beyond their actual holding. Such tenures are, of course, protected by record at Settlement; the second clause of Section 20, Act XII of 1881, deals with them.

§ 4. *Ex-proprietary Tenants.*

The custom of the country undoubtedly also recognizes a class of tenants called in the Act 'ex-proprietary.' If a proprietor loses his rights by misfortune or by the action of the law, he is at least allowed to retain cultivating possession of the portion of the estate which he had once held as his 'sír.' On this he remains as an occupancy tenant;—an excellent rule, which prevents the hereditary agriculturist from being absolutely turned adrift on to the world without means of subsistence.

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[1] Section 39, p. 42. These tenants are in Bánda called 'jama'i,' as they only pay the jama' or Government assessment. Act X of 1859 did not contain any clause directly *saving customary rights.* The present Act, Section 20, clause 2, practically does. Dr. Field mentions (p. 773) that 'the High Court (of Calcutta) in one case said that the Act (X of 1859) did not take away the right of any *raiyat* who had a right, by grant, contract, prescription, or other valid title, to hold at a fixed rate of rent.' And it certainly seems that this was the true view of the law.

§ 5. *Other forms of Occupancy Right.*

So far all is clear; and no doubt the existence of this group of 'natural' rights would have justified the enactment of a tenant law. But that is not by any means the limit of the existing Law. There are a great many other tenants with no such definite marks of superiority; and the great difficulty is to say, as a matter of fact, how many of this great body of tenants owe their position to some sort of contract, or permission on the part of a superior, and how many represent remote ancestors whose location, dating generations ago, is not now traceable; or how many of what are now tenants were made so by the turns of the wheel of fortune which brought them down from a once 'proprietary' position, of which no such vestiges as those we have been considering, now survive. It may be morally certain that they were once owners, but it is not easily proved.

No Tenant Act has ever succeeded in drawing a complete line of theoretical definition. In the North-West and Bengal it was never attempted. It was admitted that the circumstances were such, that a great number of tenants ought to be protected; and in the end a practical rule was settled, which certainly includes all entitled to protection if it does not also take in some whose claims are more doubtful. The rule, first enacted in 1859, declared that under certain conditions, all tenants who had 'actually occupied or cultivated land continuously for twelve years should be treated as occupancy-tenants.'

Before we consider what are the conditions of an 'occupancy-tenant's' right, and what are its legally provided advantages, let us consider briefly the history of the law regarding tenants.

§ 6. *Opinions held about Tenant-right.*

That a person who has been (within a definitely-traceable period) a proprietor and has since lost his position; that one whom the village body has always regarded as permanent and holding at favoured rates; that any tenant who has something special about his position—traceable to the changes, the ups and downs of agricultural life in former days;—that any one of these should be protected by law as an occupancy-tenant, is a principle which needs no argument in support of it. But the further question whether length of occupation and residence in the village, or either or both, should of itself suffice to convey any right, is one which has not always been answered with a uniform assent.

In fact, the justification of a general legal protection, on the ground of long occupation only, very much depends on the real history of landholding customs. In Bengal, for example, in every permanently-settled estate, the Zamíndárí right was clearly an adventitious thing,—one which had grown up over that of the original village landholders; it might therefore easily be admitted that the great bulk of the village cultivators were equitably entitled to a permanent position. The fixing of twelve years, or any other arithmetical rule of limitation, was no more than an equitable expedient for putting an end to strife, and saving rights which were in danger of being lost through failure of technical proof. But it might be said that in other cases, where the history was different, the claims of the present proprietary body were far stronger, and there was no occasion for such a general rule. That is one side of the case. On the other side, it would be contended that, whatever the theory may have been in old days, tenants once invited to build their houses in a village, were practically permanent. Every one who got a plot of land on consenting to pay the Rájá's grain-share, was originally, so far at least, on an equal footing with the older settlers; one could not be turned out, except by the exercise of arbitrary power, more than another. However this may be, the first Tenant Act (X of 1859) granted a right of occupancy to all tenants (irrespective of their being able to prove anything) who had held the same land themselves (or by their ancestors) for twelve years[1]. There was therefore no occasion for the Act to attempt description of various classes of such tenants. I have already in another chapter indicated the general line of argument which has been taken by the official advocates and opponents of the tenant-right law respectively. It is not likely that opinion will ever be unanimous on the subject; there will always be something to be said on either side. There are, of course, inconveniencies resulting from tenant-right when dependent on any arithmetical rule as to length of occupation[2]. But no law that can be invented will ever be free from such incidental imperfections.

Perhaps the safest solution of the difficulty is to be found in the practice and procedure of the Upper Indian Settlements. The power which a Settlement Officer has of informal inquiry,—bound by no technical rules of evidence, and the fact that he can investigate matters on the spot, as no court of justice sitting at headquarters can, place him in a situation peculiarly favourable for deciding such questions. It may be thought, therefore, that it would be better to leave the rights of a tenant to be dependent on an inquiry to be made by the Settlement Officer, and on the usual subsequent remedies, exactly in the same way as questions of proprietary right are.

On the same grounds it may be urged that it would have been much better to allow the Settlement Officer to fix, either for the whole term of Settlement or at a progressive rate, as justice and the circumstances warranted, the rent which a tenant was to pay in cases where his right to occupancy was also declared[1]. It is obvious that a definite provision for determining rents is the necessary concomitant of an occupancy right, since that right would be valueless if the rent could be so raised as to compel the tenant to go rather than pay it. The proposal to employ the Settlement Officer, proceeds, of course, on the assumption that the Civil Courts do not in fact afford a satisfactory solution to the difficulty that arises in questions of rent enhancement. This assumption may be contested; and as the object of this work is in no respect controversial, it would be beyond my scope to discuss it. But so much is certain, that the tests to be applied by the courts are neither certain nor easy of application.

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[1] I have given some particulars about Act X in the chapter on Bengal tenants (vol. i. p. 641). It was at first proposed that the right of occupancy should extend to every *resident* cultivator, and three years' residence constituted a 'resident tenant.' This was objected to, and the twelve years' rule was substituted by way of compromise.

[2] For example, in the *Bareli S. R.* it is asserted that non-resident cultivators (pahi) could never *by custom* have rights, yet under the twelve years' rule they got them; the result has been that when a land-owner's own sons grew up, and he wished to provide for them by giving them lands to cultivate on his own estate, he could not do so, because so many cultivators (originally 'pahi') had by the twelve years' rule become irremoveable; and he had to send his own sons off his estate to work as 'pahi' cultivators in another village, and so find the means of subsistence.

The necessity for reform, however, depends largely on the practical working of the existing law. If common tenants are really able to get on without formal help or interference at Settlement, well and good: if not, there can be no objection, in principle, to extending the existing provisions to them also[1]. As a matter of fact at every modern Settlement, the Officer in charge *does* do a very great deal in the way of settling rents, either by direct order, in the case of occupancy-tenants, or by his persuasive action, in other cases; and it may be asked, why should not he be vested with complete and formal powers?

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[1] And this has of late years actually become the law in the Central Provinces. But it was advocated without success in the North-Western Provinces. Among the earlier revenue authorities of the North-Western Provinces, Mr. Bird urged the fixing of rents with great force. 'I have often wondered,' he says, 'that those who have employed their minds to investigate the principle of landed property in India should have overlooked this one marked prevailing, uninterrupted, prescriptive usage. It is in fact the only right recorded; yet so singularly do our associations govern our opinions that many persons consider raiyats (tenants) to possess no right at all, while they hesitate not to take for granted the rights of Zamíndárs and taluqdárs.

. . . .

'The right which our Government has conferred on these last-named persons, they and their officers are bound to respect.

. . . .

But they are no less bound to maintain that prescriptive right of the raiyat which they have equally admitted . . . and which Government have declared it to be their bounden duty to uphold.'

It is impossible not to sympathize with the writer's generous desire to support the rights of the humbler classes; but it must be confessed that the argument is open to some objection, because here we have the Western terms 'right,' 'prescriptive,' and so forth; and the question is whether there is any real proof of *right* as we understand the term, or whether the fixity of tenure and of the rent or produce share was not a mere *custom depending solely on circumstances*,—namely, the absence of the possibility of competition, and the desire of the landholders to *keep* their tenants—circumstances which have now in great measure, if not entirely, passed away. No distinction is drawn between the large class of cases where, owing to the *origin* of the present 'landlord's right,' most of the 'tenants' *must have once been proprietors*, and those cases where the origin of the estate not being artificial (at least within modern times), the cultivators are 'tenants' properly so-called. It may also be said that the argument proves too much, since *all* classes of tenants had their rents fixed, whether of twelve years' standing or not; but it might be argued that those who do not belong to the confessedly privileged classes above alluded to, have a scanty claim to maintain a fixed rent under the totally different conditions which now obtain.

Act XIX of 1873, secs. 71, 72.

§ 7. *Actual Provisions of the Law regarding Tenants.*

Act X of 1859 has long been repealed in the North-Western Provinces; it was first replaced by the Rent Act (XVIII of 1873), but this Act effected no radical change beyond improving the Rent Courts and their procedure. It kept the twelve years' rule and the 'formula' of conditional enhancement as before. This Act has, in its turn, been repealed, and Act XII of 1881 (as amended by Act XIV of 1886) is now the law of the province. This Act still does not alter the *principles* already laid down, and may in fact be regarded as merely an improved edition of the Act

Act XVIII of 1873, sec. 8. Sec. 12.

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[1] Mr. Fane, Mr. Bird's colleague, puts aside this proposal with the remark that it would be a sort of half measure between a 'raiyatwár' and a 'mauzawár' (village-community) system, and that 'it would establish a state of things in regard to the occupancy of land which would have no resemblance to the relation between landlord and tenant that has heretofore existed in India or in any country in the world.' But this surely is to beg the question. *Would* such an arrangement violate the relations that exist *in fact*? And what does it matter whether it would resemble tenancy relations in any other country as long as it is convenient and just?

Mr. (now Sir) Auckland Colvin, on the other hand, directly supports the plan in the concluding words of his admirable memorandum:—

'The remedy will,' he says, 'be found in arranging at time of Settlement for the fair and full valuation of rents, not by law courts and vain formulæ of enhancement, but by the only officer competent to do it, the Settlement Officer, who stands to-day in place of Akbar's 'Ámil, and who has to guide him through a mass of data which he only can effectively handle. During the term of Settlement the rents so fixed I would, with certain exceptions, maintain,—a far larger revenue would be gained with a smaller amount of heartburning. The treasury would be satisfied, and the people become content.'

of 1873, the reissue of whole being thought more convenient than publishing an amending Act[1]. The consequence of these provisions is that, taking the province as a whole, there are four classes of tenants—(1) tenants who were once proprietors but have sunk to the grade of tenants in permanently-settled estates, but had special and customary recognized privileges to hold at fixed rates; (2) ex-proprietary tenants; (3) those who have acquired rights under the twelve years' rule; and (4) tenants-at-will.

These the Rent Act deals with as follows:—

(1) In permanently-settled estates, tenants[2] who have held since the Settlement at the same rate (and uniform holding for twenty years raises a presumption that the holding has been since Settlement), have a right to hold always at that rate, and they are called 'tenants at fixed rates'; the right is heritable and also transferable.

(2) Next, ordinary (occupancy) tenant-right is secured to all persons who, having been proprietors, lose or part with their proprietary rights; they retain the right of occupancy as tenants in their former *sír* land, and for the purpose of the Rent Act 'sír' includes not only what is recorded at Settlement as such, or what is recognized by village custom as the *sír* of a co-sharer, but also land which he has continuously cultivated for twelve years for his own benefit with his own stock, and by his own servants or hired labour. Such tenants are called 'ex-proprietary tenants.'

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[1] The changes made will be found noted in the Statement of Objects and Reasons in the *Gazette of India* for March 13th, 1880. They are nearly all matters of detail, to remove difficulties that came to light in the six years' working of the law (since 1873). One amendment (Section 9) was more a matter of principle. It affirms the non-transferability of the occupancy-tenant's right, either by voluntary or involuntary transfer, except to some member of his family who is a co-sharer. Previously it had been held that the right might be attached in execution of decree and sold, if the landlord was the decree-holder. The section prohibiting sale was made, it was thought, in the landlord's interest; so that if the tenant waived the privilege and asked that the right be sold, the landlord might buy it. As Section 9 at first stood, there was no doubt much to be said, legally, in favour of this view.

[2] I have already alluded to those subordinate interests, which are with difficulty distinguished from tenancies, but which are protected by Section 4.

(3) All tenants who have actually occupied or cultivated land continuously for twelve years have a right of occupancy. But this is qualified by the following exceptions :—

(a) No sub-tenant gets the right, i. e. if he is a tenant holding under an occupancy, a fixed rate, or an ex-proprietary, tenant.
(b) No tenant gets the right in a proprietor's *sír* land.
(c) Nor in any land which he holds in lieu of money or grain-wages.

The rights of 'tenants at fixed rates' are heritable and transferable; ordinary occupancy-rights are not transferable except to co-sharers; they are heritable by descendants in the direct line, but not by collaterals, unless such collateral was a sharer in the cultivation of the holding at the time of the decease of the right-holder.

All tenants can claim leases specifying the land which they hold, and the terms; they are bound to give counterparts or qabúliyats.

§ 8. *Enhancements of Occupancy Rents.*

The terms on which the rent of occupancy-tenants, not being fixed-rate tenants, can be enhanced, and on which abatement can be claimed, are stated in Sections 12–13. Rent can be enhanced,—(1) by contract (but only if *registered*), (2) by order of the Officer at Settlement[1], or (3) by an order obtained under the Rent Act.

In any case, a rent once enhanced cannot again be enhanced for ten years. For the grounds, which are three in number, on which rent can be enhanced, the Act itself may be read. Act XII of 1881, secs. 13-20.

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[1] When the Settlement Officer has fixed an occupancy-tenant's rent with reference to the assessment on the estate and other conditions, it so remains for the term of Settlement, unless one of the special grounds given in Section 17 occur during the currency of the term. It is held that the power of adjusting all occupancy-tenants' rents at Settlement really does almost anything that is required, and that tenants-at-will (not benefiting by the twelve years' rule) are really tenants who may be fairly left to come to their own terms with their employers (see p. 174, ante).

The subject of enhancement (requiring, as it does, many detailed rules of practice) is dealt with in Rules made under Sec. 211 (*a*) of the Rent Act[1], and having the force of law.

§ 9. *Protective Provisions for Tenants generally.*

It is not necessary to repeat the details of the conditions under which alone ejectment can be had in all cases, even of common tenants. All tenants are benefited by the provisions for regulating the distraint of property in recovery of rents; also by those dealing with the subject of improvements, and compensation for them on eviction. The provisions of Sec. 20 regarding caste and customary favourable rates being respected, are also for *all* tenants.

The produce of land is held to be hypothecated for rent, and the rent is a first charge. Distraint of crops standing and cut, but not removed out of the homestead, is allowed after service of a written demand; the produce must be that of the land for which rent is due, and for one year's rent only, not for older arrears: sale is effected by application to a properly-appointed official.

A provision fraught with importance to the tenant-class will be noted in Section 23. Whenever on the occurrence of famine, drought, or calamity of any kind, Government remits or suspends the payment of *revenue* due to itself, any officer properly empowered by Government for this purpose, may order that the benefit be extended by the landlords to their tenants, and that a proportionate remission or supension be granted to the tenants for their *rent*.

§ 10. *General Outline of the Rent Act.*

The student will find the Rent Act easy to study. It is necessary carefully to bear in mind the definition clauses, so as to attach the right meaning to the words used. The following outline of its arrangement and contents may be useful.

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[1] The Rules were sanctioned by Government (No. $\frac{974}{\text{I. } 378\text{A}}$ of 31st May, 1889, to B. R.), superseding those in S. B. C., No. 3 (Dept. II.), May 10th, 1881.

Chapter II (Sections 4–10) defines the classes of tenants dealt with, as already stated.

Occupancy is, of course, of no use unless the power of *raising the rents* is limited. Sections 12–23 deal with this subject, as already explained. As there is *enhancement* on proper conditions, so is there *abatement*.

All non-occupancy tenants must agree with the landlord as to their terms (Sec. 20, however, makes special provision regarding caste and other customary matters as affecting the rent. In order that there may be no mistake or uncertainty, the grant of *leases* (if the tenant require) is made compulsory (Section 24): the tenant must give a corresponding reciprocal engagement. Section 30 is now of no importance; all such matters have long been settled[1].

The next group of provisions (Section 31 et seq.) relates to the *ejectment* of tenants by the landlord, and their own voluntary act of *relinquishment*. Necessity for these provisions arises when there is no lease for a term which expires on a known date, and where the tenant might go on holding from season to season, if there was no regulated procedure in the matter. Besides ejectment, which is due on the expiry of term, there are ejectments caused by wrongful acts which involve forfeiture. The provisions vary with the class of tenant.

Where a tenant is properly ejected, there may be a question about *ungathered crops* (Sections 41–43). And opportunity is taken here to provide for the case of a dispute when rent is taken in the form of a division of produce.

Moreover, when ejectment takes place, there may be the question of *compensation for improvements*, which is dealt with in Sections 44–47. The sections answer the question, What is an improvement? and, incidentally, What tenants can make improvements with or without the consent of the landowner; and what form does the compensation take?

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[1] They will be observed to be connected with the question of the 'resumption' of 'invalid revenue-free tenures,' under the Regulations, described in detail for Bengal (Vol. I. Book II. Ch. i. p. 423), and of course applying to the Permanently Settled districts.

Sections 48 and 49 next attempt to protect tenants from *illegal exaction*, and to insist on their getting *receipts for rent-payments.*

Where there is a dispute about the terms of a tenancy, it is convenient to provide for the tenant's *depositing in Court* the rent he tenders as due, so that the question may be settled, and he may not be harassed as if he were a defaulter. (Sections 50–55 A.)

The important subject of recovery of rent by *distraint* is dealt with in Chapter III. This is a matter which, ever since the old law of Regulation V of 1812, has been a difficulty. On the one hand, if the landowners responsible for punctual payment of their land-revenue to the State are not able to get in their rents with equal certainty, they will unjustly be subjected to trouble under the law regarding arrears of revenue; on the other hand, the tenants must be protected when they are not really indebted, since distress of crops and chattels is very easily turned into an engine of cruel oppression. Sections 56–90 deal with the whole matter, including penalties for wrongful distraint.

The remainder of the Act is occupied with matters of powers and procedure, which will again come to our notice when we deal with Revenue Officials and their business. Here, to complete the outline of the contents of the Act, I will only mention that Chapter IV deals with *forms of process*; Chapter V, with the important subject of *jurisdiction* and *powers.*

Chapter VI deals with the procedure in revenue suits; and Chapter VII with the execution of decrees in such suits. Chapter VIII is about appeals and the power of revision. Chapter IX deals with some supplementary matters which explain themselves.

§ 11. *Illustrations of Tenant-custom—Rohilkhand Districts.*

We will now notice what the District Settlement Reports have to tell us in illustration of the tenant-law and custom of the districts.

The old 'natural' distinctions of tenants into resident ('chapparband,' &c.), and 'pahí,' or non-resident, is noticed in some of the reports, but it is falling into disuse before the practical distinction which the law and the Settlement records alone make, between the occupancy-tenant and the tenant-at-will.

In BARELI the 'chapparband tenants'' rent included a day's labour given to plough the proprietor's 'sír' land, and also certain dues in 'bhúsá' (the chopped straw used in cattle-feeding and for other purposes), and certain jars of sugarcane juice. This reminds us of the old rent-services paid by tenants to the lord of the manor in England after the Conquest. Here, too, as is so often the case, the *caste* of the tenant is found to affect rent. High-caste men are favoured because of their respectability, or, in some cases, religious sanctity. Others pay less because by nature they are not such good agriculturists as others[1].

In PÍLÍBHÍT (a district adjoining and at one time united with Bareli) the Settlement Officer (§ 23) speaks of the occupancy-tenants as 'created by law.' I should venture to doubt the accuracy of this, seeing that, in all the Rohilkhand districts, proprietary rights had been so overridden that on the Settlement occurring there must have been a very large number of persons entitled to so much consideration as the occupancy-tenure gave. This I infer also from the number of occupancy-tenants in the other Rohilkhand districts. In BARELI, the Board remark[2]: 'three times as much land is held by occupancy-tenants as by others'; and here we notice a peculiar privilege—spoken of as a 'muqaddami tenure'—under which the headman of the village becomes the landlord's agent, and is allowed a holding at favoured rates, and is exempt from these curious 'manorial dues' which the landlords manage to levy (see p. 116, ante) in Rohilkhand. Again, in SHÁHJAHÁNPUR[1] the whole district is thus held (in percentage of total area):—

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[1] I have referred already to the provisions of Sec. 20, Rent Act, in this matter.

[2] *Review of S. R.*, § 13.

	Per cent.
By proprietors for their 'sír'	13·42
By occupancy-tenants	61·31
By tenants-at-will	25·27

And the Report expressly notices that the proprietors 'do not in the least mind their tenants having occupancy-rights,' and that the record was accordingly made 'almost without dispute.'

In BUDAON (Badáyún) no less than 72 per cent. of the area held by tenants was in 'occupancy' right.

In MURÁDÁBÁD[2] there are peculiar features owing to the widespread 'mu'áfí' holdings of the Sayyids, in which the village rights were virtually destroyed; but as the absentee landlords could not dispense with the services of the headmen, they were obliged to concede to them certain privileges and dues which secured their loyalty and interested them in improving the village. Such a tenure is hereditary and is locally called 'zamíndárí' (in a sense special to these estates and to some others—adding one more meaning to the load already carried by the unfortunate word 'zamíndár'[3]).

It is noted that 70 per cent. of the ordinary tenants have occupancy-rights, but that the figure is uncertain. The Settlement Officer is, however, satisfied that 'the larger portion of the land is held with rights of occupancy'—about two-thirds he thinks—except in the parganas of Amroh and Hasanpur, where the 'mu'áfí' or revenue-free holding landlords muster strong, and treat their tenants harshly; or else where the 'bhúr' (light, sandy) soil requires frequent fallows, and so changes of tenants occur[4].

In BIJNOR[5], it is remarked that of the lands cultivated by tenants, about 57 per cent. is held by occupancy-tenants. In certain parganas the tenants-at-will are more numerous, and these parganas differ in all respects from the others. Grain-rents for some of the crops are more common in this district than elsewhere.

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[1] *General S. R.*, p. xxix.

[2] *S. R.*, p. 25.

[3] But there is an intelligible analogy: the tenure implied the *management* of the land on behalf of the distant, or at any rate non-agricultural, landlord, and in that sense the headman is the *holder* of the land. A very similar use of 'zamíndárí' will be noted in Oudh under the Taluqdár's estates.

[4] *S. R.*, §§ 28, 29, p. 28.

[5] *S. R.*, § 203.

Thus throughout the Rohilkhand districts, which were alike in this, that old (and originally proprietary) rights had been much overridden, occupancy-tenants are numerous: this goes to show that rights were *not* artificially created, but represent such measure of justice as was possible after the lapse of years, to people the large majority of whom must have had every claim to consideration.

§ 12. *The Doáb Districts.*

Passing to the upper part of the Doáb, I notice that in MUZAFFARNAGAR, where the Sayyid proprietors have been described, this state of things resulted in 'half the area being held by occupancy-tenants[1],' the rights of tenants *to plant trees* have been very generally recorded. The planting of trees is generally a mark of proprietary right or a right that once was of that kind. This we shall again notice in Oudh. Produce-rents still prevail in parts.

In SAHÁRANPUR, on the other hand, immediately to the north, it is said that 'the right of occupancy was unknown previous to the passing of Act X of 1859[2].' This, it appears, was not due to the power of landlords or the views of officers, but to the fact that *all* village cultivators were so much depressed that there was not any distinction. Every one said that the only right he claimed was to remain so long as he paid a fair rent. But, as may be expected, this state of things did not last very long. I have not been able to obtain statistics showing what the proportions of the classes now are.

BULANDSHAHR does not show any particular features. As far as can be made out, 'hereditary-cultivators' represent 22,717 holdings against 56,576 held by tenants-at-will[3].

MEERUT. It is noticed that the proportions of the classes of tenants vary very much in the different parganas[4]; for the whole district, the classes are not far from being equal, the proprietors of land themselves cultivating an acreage nearly equal to that held by both classes of tenants together.

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[1] *Government Review of the S. R.*, p. 5.

[2] *Gazetteer*, vol. ii. p. 224.

[3] *Gazetteer*, vol. iii. p. 73.

[4] *Ibid.*, p. 296.

'Aligarh. Here the area held by occupancy-tenants is smaller. Of the cultivated area, 23 per cent. is held by proprietors (k͟hudkásht), 29 per cent. by occupancy-tenants, and 48 per cent. by tenants-at-will. Originally the privilege was only recorded in favour of the 'better castes and classes[1],' who had really cultivated for generations. But under Act X of 1859 no distinction of caste or class was provided, and the law 'put aside the custom of a village if the custom was ruled by any other standard than the mere occupancy of twelve years' duration.' A picture is drawn of the contest between the classes which is too long to quote. Where the landowner was powerful and inclined to be exacting, he succeeded in keeping out such rights; and in others—and perhaps on the whole everywhere—the tenants were successful.

In Muttra[2] we are informed that, in 1851, the record only noted the fact that a tenant had been so long in possession; and that the classification into 'maurúsí' (hereditary) and at will, was according to the custom. The proportion of the former to the latter was small. The report then gives a comparative statement of which this is the abstract:—

	Trans-Jamná.		Cis-Jamná.	
	Formerly.	Now.	Formerly.	Now.
	p. c.	p. c.	p. c.	p. c.
Held as 'sír' by proprietors . .	32·8	25·4	24·2	24·9
By tenants with occupancy-rights	15·4	33·4	20·8	40·9
By tenants-at-will . . .	45·5	33·9	52·2	30·8
Rent-free	6·3	7·3	2·8	3·4

Grain-rents are common in parts of the district.

In Agra[3] the cultivated area is held—23·5 per cent. by proprietors themselves, 54·1 by occupancy-tenants, and 22·4 by tenants-at-will, and 'the area held by the occupancy-class over the whole district amounts to rather more than the area cultivated by the other three classes (proprietors, rent-free, and tenants-at-will) together.'

In Eta the *cultivated* area is held—64 per cent. by occupancy-tenants, 21 per cent. by tenants-at-will, and only 15 per cent. by cultivating proprietors. This is due to the number of ousted proprietors. Rents are very low in this district, for various reasons which I cannot here discuss[1].

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[1] *Gazetteer*, vol. ii. p. 459.

[2] *S. R.*, p. 45.

[3] *Ibid.*, p. 57.

In ETÁWA it is the same—71 per cent. of the whole area *held by tenants* is held by 'occupancy-' tenants.

MAINPURI. The occupancy-tenants hold more than half the cultivated area (369,693 acres out of 605,121).

FARUK͟HÁBÁD also shows 64 per cent. of the whole cultivated area held by occupancy-tenants. And here the proportion varies locally, according as the present proprietors have taken a larger or smaller area into their own hands as 'sír' or as 'k͟hudkásht.' This may very often indicate that the present proprietor finding persons in ancient occupation, let them alone, and did not oust them for his own wants; whereas in other cases, either the persons in previous occupation were feeble and of no pretensions, or else they did not occupy at all what the proprietor now has as 'sír.'

In CAWNPORE the same thing is noticed: the largest proportion of occupancy-holdings is where the proprietors have not been obliged to take much land into their own hands: the highest average, however, in any pargana is 71·3 per cent. and the lowest (Sikandra) 51·6. In the Rasúlábád pargana, where the area was large, it is said to have increased more than one-half in the twenty years preceding the report[2]. The general district percentage of the *cultivated area* held by occupancy-tenants is 62·4.

In FATIHPUR I find it said—'In no district of the province is a larger proportion of the land held by tenants with occupancy-rights than in Fatihpur.' This satisfactory state of things is attributed by Mr. Patterson (the Settlement Officer) to three causes[3]:—

(1) Absence of great and powerful landlords;
(2) Tenants being of ancient possession and strong;
(3) Revenue assessment has generally been high enough to prevent the existence of any margin by which rents could be enhanced.

These tenancies are believed *not* to be the result of Act

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[1] See *Gazetteer*, vol. iv. p. 83.

[2] *S. R.*, p. 11, § 49.

[3] *Gazetteer*, vol. viii. p. 74 (Fatihpur), 352,605 acres out of 532,303 acres are so held. *Board's Review of S. R.*, p. 4, § 11.

X of 1859, but to represent the real 'old yeomen' of the country[1].

In ALLÁHÁBÁD, 15·2 per cent. of the cultivated area is held by proprietors as 'sír'—about 2·2 as rent-free (chiefly 'sankalp' to Brahmans), 0·7 by tenants paying corn-rents, while of the remaining 82 per cent., occupancy-tenants (paying cash-rents) hold 71 per cent.[2].

On the whole—though, of course, no such remark can be made without exceptions—it would certainly seem that occupancy-tenants as they now are recorded are far from being an 'artificial' institution. Looking to the large number of estates (p. 116 et seq.) where a 'zamíndárí' tenure has been established, it would follow logically that a very large proportion of the land *ought* to be held by occupancy-tenants. And even where the area so held has increased,—and the twelve years' rule has helped this result,—it is sometimes directly stated that the landlords have had no objection; while it may be reasonably argued, generally, that if there was any strong feeling abroad that such rights were not just, there would have been much more resistance and a slower growth of occupancy-rights than there has been.

§ 13. *Districts east of the Ganges.*

The previous remarks apply to the districts of the Doáb and Rohilkhand; there remain the tracts bearing a somewhat special character, namely, those east of the Ganges—Gorakhpur and Bastí and the Bundelkhand districts—which present some not uninstructive and special features.

Both GORAKHPUR and BASTÍ illustrate what I have said about the difference in origin of *bhaiáchárá* and *pattidárí* estates. Both these districts were originally old Hindu states with their Rájás' *demesne* and their estates of chiefs; and they exhibit, as usual in such cases, many instances of special grants (*birts*) made by the chiefs. The original inhabitants—Bhárs and other low castes—were reduced to being tenants and, in some cases, little better than serfs. There are no great allotments of area here, where cultivating groups of clansmen—not chiefs, but commoners of the superior tribes—established the *bhaiáchárá* system.

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[1] *S. R., Government Review*, p. 3.

[2] *S. R.*, p. 64, § 7.

The estates have *now* become taluqdárí or zamíndárí and pattídarí, according as the overlord has established his position, or the grantees (birtyá) have maintained theirs. An excellent account of the whole is to be found in the *Gazetteer*[1].

Throughout them, the tenants were so depressed that they had no idea, even in 1869, of claiming occupancy-right; and many of them (i.e. the older classes of Bhárs, Pásís, &c.) had given way before the enterprising cultivators—Kurmís, Chamárs, &c., who came from the south seeking lands to cultivate. As usual, where the tenant is much depressed or too ignorant to resist, and too much indebted to have any independence, we find *abwáb* or illegal cesses submitted to. Fees on marriages, on building new houses, presents at harvest 'to secure good-will,' penalties on selling grain to any one but the Zamíndár (who doubtless is not the best person to sell to, since he demands seers of 96 tolas, and bíghás of 24 *biswas*, &c., in estimating his grain or the area of his share), were exacted.

It is satisfactory to be able to read that the Rent Act has been distinctly beneficial; that gradually the tenants are learning to resist illegal demands: but of course indebtedness to money-lenders is not so easily overcome by any statutory provisions. The number of occupancy-tenants has increased to about one-third of the whole body. In the north of Gorakhpur the climate is unhealthy, and tenants do not remain long enough to acquire occupancy-rights, at the same time the present rents being very high; the 'batái' or rent in kind, with its many disadvantages, is also here locally preferable to a system of cash-rents, and it is common[2]. In the south the advent of skilful cultivators has enabled the (universal) cash-rents to be raised.

In Bastí it is expressly said 'bhaiáchárá tenure is everywhere unknown[3].' *All* the estates are either held by single or joint owners, or on ancestral shares, with a limited number of 'birt' estates—as elsewhere in Oudh[4],—and a few separate plots held under the denomination of 'arází, which have been already explained (p. 169, note).

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[1] Vol. vi. pp. 396-403 and 404-408.

[2] *Gazetteer*, vol. vi. p. 409.

[3] *Ibid.*, vol. ix. p. 669.

[4] The 'jíwan-birt,' or maintenance grant to cadets of the family; the 'marwat,' or grant to families of those slain in battle; the 'sankalp,' or religious grants; and the 'muqaddamí-birt,' or headman's grant for his service—analogous to the 'watan' lands of headmen in Central India; only that the headman was here head of a tenant body so reduced and humble, that it is questionable whether the *birt* in his case was anything like a 'proprietary' grant.

Cultivation here is mentioned as more frequently undertaken by the impoverished descendants of the greater families, who must now themselves cultivate or starve[1].

But the tenants were just in the same state as in Gorakhpur. Both there and in Bastí, mention is made of terms which I have occasionally to use elsewhere—the superior families who *owned* all the land called themselves the 'ashráf,' the gentry, and these formed, on multiplication, the landowning *pattidári* villages. There is very little trace of the 'republican' village community. The figures are now somewhat varied, owing to the necessity for the subdivided proprietary holders taking to direct cultivation, and we have[2]—

	Acres.
Held by proprietors	320,561
" occupancy-tenants	230,821
" tenants-at-will	544,447
TOTAL	1,095,829

§ 14. *The Bundelkhand Districts.*

In the BUNDELKHAND districts, we have to notice some curiosities in the way of tenancies rather than anything that is very important.

In BÁNDÁ, Mr. Cadell says that at the time of Settlement the land was held—about $\frac{3}{12}$ by proprietors, $\frac{4}{12}$ by occupancy-tenants, and $\frac{5}{12}$ by tenants-at-will[3], but that this was afterwards much modified, and tenants-at-will increased. At the Settlement all occupancy-rents were fixed, and, with the consent of the landowner, those of many tenants-at-will also.

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[1] Das hal ká Ráo; áth hal ká Ráná;
Chár hal ká bará kisána.
Do hal khet: ék hal bári;
Ek hal se bhali, kudári.

Ten 'ploughs' is the holding of a Ráo (Prince), eight of a Rána (Chief). Two 'ploughs' make an ordinary field; one (suffices for) a house site and garden: but a patch to be worked with the hoe (kudári) is better (for the purpose) than a 'plough.'

This local quatrain shows the idea of different-sized estates for the different ranks—Ráo, Rána (chiefs), and the kisána (yeomen); and how natural it is to measure by ploughs.

[2] *Gazetteer*, above quoted, p. 685.

[3] *S. R.*, p. 245, § 272.

In this district we find the 'jam'ai tenant' alluded to at page 170. In the large *bhaiáchárá* colonies, tenants were freely taken in 'at the founding,' and being so, were acknowledged as entitled to equal favour with the co-sharers in everything but the actual proprietary position[1]. Really, these tenants paying only at revenue-rates, are as much 'fixed-rate tenants' as those acknowledged by law in permanently-settled districts.

The nature of cultivation is such in this district, that allowance for fallow—which means that the same fields cannot be tilled year after year—must be made. And this may raise some difficulty in connection with the *continuous* holding of an occupancy-tenure. In the Panjáb, Bengal, and Central Provinces laws, it is distinctly acknowledged that a holding on the same terms and of the same general area under the landlord may be, for legal purposes, 'continuous' holding, though the same individual fields be not held ; but this is not provided in Act XII of 1881.

The old Rent Law (Act X of 1859) was not in force in Jaláun, Lalitpur, or Jhánsi, but the later Act of 1881 was extended ; circumstances did not then necessitate the exemption.

In JALÁUN, no statistics are given as to occupancy-tenants ; but it is noted[2] that there were practically no disputes about rents.

In JHÁNSI the state of things left by the Maráthás resulted in unfortunate decisions at our first Settlements regarding proprietary rights. The remedial measures that were adopted, to some extent succeeded ; and this is the reason, perhaps, why there are in this district a number of tenants at fixed rates, who under a better system, would have been 'proprietors of their holdings.' The necessity for *fallow* has led to the practice of arranging the tenants' holdings so as to include waste ; the requisite rotation of crop and fallow can then be followed ; sometimes the holdings include areas of grass-land (rúnd), and include the máhwá (or mohwa) trees on it[3]. For such holdings a lump-rent (tháṇsá or tánká) is paid, and in the case of one class, it is not liable to enhancement (for the period of Settlement). In another class it is a lump-rent, but liable to enhancement. The proportions of holdings are stated to be[1] :—

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[1] *S. R.*, p. 42, § 39.

[2] *Gazetteer*, vol. i. p. 226.

[3] The máhwá (or mohwa) tree, *Bassia latifolia*, is, throughout Bundelkhand and Central India, a valuable property : the large, fleshy-leaved flowers, falling when fully grown, are collected and dried, and form an important article of food. Unfortunately, perhaps, these flowers are also capable of being used for distilling spirit—a fact which has led to some excise troubles in Western India.

By proprietors	41·8	per cent.
By tenants at fixed rates . .	14·01	"
By lump-rents not fixed . .	13·6	"
By tenants-at-will . . .	30·5	"

The lump-rents are not fixed on any *area*, but on a general estimate of the capabilities of the holding as a whole, including its irrigation advantages.

We notice the same custom in LALITPUR, where the holdings were considered and rated every two or three years after an examination of the crops—a process spoken of as 'dekhá-bhalí' (seeing the welfare). The Act X of 1859 did not apply; but rules were made in 1863 regarding enhancement, which served every purpose. Now, the general rent-law (Act XII of 1881) is in force. The people had their own custom of recognizing hereditary holdings. At the early Settlements it was noted that some tenants did not wish to be recorded as 'hereditary,'—either to please the landlord, or under an idea that, as tenants-at-will, they could make better terms[2].

The rent-rates are described by terms which recall the days when revenue was heavy, and tenants and sharing proprietors had to pay alike. Thus we hear of the 'dhárbandí' and 'narwadhár'—the latter term being interesting as connecting us with the 'narwá' villages of Guzarát in Bombay. They all point to an equal distribution of the burden by a rate on the crops or soil.

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[1] *Gazetteer*, vol. i. p. 281.

[2] *Gazetteer*, vol. i. p. 341. It must be remembered that the resident hereditary tenant does not always get easier terms than the tenant-at-will. He often holds the best land; but he has a hereditary love of his land, and the harsh landlord can press him more before he will give up; while the tenant-at-will—with no such ties—will, if things are not made pleasant for him, give up and go. In Lalitpur we hear that the 'pahikásht' paid one-fourth less than the resident cultivator (who was really the old village-co-sharer) and escaped any extras.

§ 15. *General Remarks on the Province as regards Tenancies.*

Taking the averages of the whole province, the following figures[1] are given as to the percentage of cultivated land occupied by the different classes:—

By proprietors as sir	16·0	per cent.
,, ,, but not as sir	8·0	,,
Privileged tenants	1·0	,,
Occupancy-tenants	36·5	,,
Tenants-at-will	38·5	,,

In tenancies all over the North-Western Provinces, *cash-rents* are now the rule. *Grain-rents* are noted in the Settlement Reports almost exclusively in the Upper Doáb, and in the drier tracts west of the Jamná, and perhaps in the more northern parts of the province. Generally speaking, corn-rents are confined either to those districts, or parts of districts, where the peculiarity of climate and soil renders such a plan suitable; or where the tract and its population are backward and have clung by custom to the older order of things; or where the tenantry are reduced and depressed, and the landlords keep up the grain-rent because they get more out of it. Very often grain-rents are taken where the crop is precarious—that saves all trouble about remissions and failures to pay. If there is no crop, the tenant cannot pay; if there is a bumper crop, the landlord benefits, especially as, being a man of some means, he is not obliged to sell his abundant share at once, but can store it, and so pass over the period of cheap prices which is likely to accompany a season of fat harvests.

Very often two or more of these causes will combine. Local and climatic circumstances are in favour of rents in kind, to begin with; and then also the people have been depressed, and the landlord's influence keeps up the grain-rent.

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[1] *Administration Report*, 1882 83, p. 41.

Grain-rents are nearly always accompanied by cash-rates (zabtí) charged on certain kinds of produce, such as opium, cotton, vegetables, and sugarcane, which are not so easily divided (see Vol. I. Chap. V. p. 273, 4).

Whenever rents in kind are taken, the same rules apply; the principle is either 'batái,' division of the grain-heap—sometimes two parts to the landlord and three to the tenant, sometimes half-and-half, sometimes less. In a few cases an *area* is set apart to yield the landlord's share. Sometimes 'appraisement' of the standing crop is resorted to; the *kaniyá* (or appraiser) estimates—and often with surprising accuracy; if this is agreed to, then the crop is cut and the weight fixed by the estimate handed over[1].

The system has both its advantages and disadvantages; and the wise rule has been not to *force* commutation. Nor does the rent-law contain any provisions. When circumstances are ripe, the parties will perhaps agree; and landlords may find it better, in order to keep good tenants, to adopt cash-payments. It is no doubt the case that where the landlords are powerful and grain-rents common, there also we find petty exaction resorted to—making the *bíghá* for the landlord big, and the *sír* larger than usual,—exacting extras in the shape of 'k̲h̲ákíana' or allowance for dust in the grain, and so forth. But these things can only be rectified by the progress of education and independence in the tenants. They cannot be altered by rules.

It is curious that rents in kind are often taken on irrigated crops—which indicates that the irrigation may fail, and no crop at all be gathered if it does[2].

But precariousness is not always the cause of grain-rents. It is curious that in Bándá, where, though much of the soil is fertile, the vicissitudes of season are remarkable, grain-rents were not, even in 1815, at all common [1].

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[1] The estimating is called 'kankút.' The time of taking the appraising view is important. The landlord prefers the (early) morning when the crop is heavy with dew, the sun shining on it, and it looks well. The tenant prefers the midday, when the crop is dropping from heat and looks poor. The fairest time is the evening, when the crop is not subject to any deceitful appearances. (*Budáon S. R.*, Section 163.)

[2] The reader will remember that this is the ordinary rule in Madras.

The way in which grain-rents change into cash-rents cannot always be followed out. But it may be surmised that a common source of change was the practice of appraisement. When the valuer looked at the crop and pronounced that the total yield would be so many maunds, and therefore that the landlord's share was so much, it became the practice to pay him over this weight, not in kind but in its cash value, at current prices. 'After a few years of valuation, the fixed money-rent, equal to the average ascertained proceeds, was determined on by agreement between the landlords and the cultivators [2].'

When cash-rents are charged, they are still largely regulated by custom, and affected by the caste of the tenants. Rises and falls in *prices* do not by any means regularly affect rents, as they would in a pure system of competition rent. In a recent inquiry held regarding a proposal of the Government of India in 1882 to simplify all new (revision) Settlements, by raising the assessment on the sole ground of a rise in prices, the unanimous opinion in the North-Western Provinces was that, as the *rental* was the basis for calculating 'assets' (50 per cent. of which represents the Government revenue), the proposal was impossible, as market prices did not generally affect rents, except at long intervals, and only partially.

Rents are still fixed at customary rates, to some extent derived from former assessment rates paid to Government. Rarely they are crop-rates—so much charged on a more valuable, and so much less on an inferior, crop. Often they are soil-rates, oftener still lump-rents, agreed to on an internal feeling of suitability to the advantages of an individual field, or similarly to an entire holding or lot of a few acres, held by the tenant.

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[1] *Bándá S. R.*, p. 43, § 41.

[2] *Administration Report*, 1882-3, pp. 39 and 40.

The average rents paid *per acre* in the different *Divisions* of the North-Western Provinces are thus given[1]:—

	Occupancy-tenants.			Tenants-at-will.		
	R.	*a.*	*p.*	*R.*	*a.*	*p.*
Meerut	4	2	0	4	11	9
Agra	4	1	6	4	4	4
Rohilkhand	3	11	2	3	5	1
Alláhábád	4	4	0	3	8	2
Benares	3	8	10	3	1	0
Jhánsí	3	1	1	2	8	7
Tarái country	2	0	10	3	1	8

These rates are all considerably lower than in Oudh, where the largest class—tenants-at-will—pay R. 5-8-0 on an average per acre.

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[1] *Administration Report*, 1882–83, p. 41. This excludes the permanently-settled districts.

CHAPTER III.

THE OUDH LAND-SYSTEM[1].

At this point we must leave the North-Western Provinces and turn to the Province of Oudh. The Settlement system, though the same in principle, is in detail a separate one, owing to the existence of Taluqdár landlords. For the same reason, the land-tenures—though of course possessing much in common with the North-Western Provinces, especially as regards the village-tenures—must be separately described.

After that, we can return to a final chapter dealing with both provinces jointly.

This chapter on Oudh is divided into two parts—one of which deals with the *Tenures*, the other with such of the features of *Settlement* as are peculiar to Oudh.

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[1] The chief authorities for Oudh (repeatedly referred to), are—

The *Settlement Reports* (quoted as *S. R.* with the district name added).

Col. G. E. Erskine's *Digest of Circulars*, 1871 (quoted as *Digest*). A number of these circulars are now repealed or obsolete, but there is a mass of historical information, in Part V. especially.

Oudh Revenue Manual, or Collection of Government Orders and Circulars, Revised Edition, 1885, vol. i. (Vol. ii. is in course of issue.)

Administration Reports, North-Western Provinces and Oudh (those for 1872-73 and 1882-83).

Sykes' *Compendium of Oudh Talukdári Law*. Calcutta (Thacker, Spink, & Co.) and London (Reeves and Turner), 1885. This work contains references to a number of works, including the late Sir R. (then Mr.) Montgomery's valuable *Report on Oudh*, 1859 (reprinted as a parliamentary blue book).

Colonel Macandrew on *Revenue Matters in Oudh*. Calcutta, 1876.

Mr. Carnegy (of Faizábád). *Notes on Tenures in Upper India*. London (Trübner, 1874).

Act XVII of 1876, Land-Revenue Act.

Act XXII of 1886, Rent Act.

Act I of 1869 (amended by X of 1885), Oudh Estates Act.

Act XXVI of 1866, Sub-Settlement Act.

Gazetteer of the Province of Oudh, 3 vols., 1877. (Government Press, Lucknow.)

A Journey through the Kingdom of Oudh, 1849-50. Major-General Sir W. H. Sleeman, &c. 2 vols. London: Bentley (1858).

Elliott's *Chronicles of Unao*.

The ordinary Revenue business and procedure, including the functions of district officers, of subdivisional officers, of village headmen, patwárís, and other village-servants, are not sufficiently distinctive to require separate chapters. The Chapter IV of this 'Book'—on Revenue business and procedure—is therefore general, i.e. for both the North-Western Provinces and Oudh, the necessary distinction being preserved by references to the Oudh authorities.

PART I.—THE LAND-TENURES OF OUDH.

SECTION I.—THE DISTINCTIVE FEATURES OF THE PROVINCE.

§ 1. *Climate and Population.*

To those who wish to form a general idea of the OUDH[1] soil, climate, crops, and population, before studying its tenures and its revenue-administration, I would recommend a perusal of the graphic, but practical and instructive, pages with which Mr. W. C. Benett has opened the *Oudh Gazetteer*.

The only points that I have space to note are, that Oudh has a very fertile soil and is well irrigated. A somewhat variable rainfall, averaging forty inches in the year (which, however, occasionally falls in ill-timed abundance), secures agriculture; and there are numerous rivers and lakes. The forest country is chiefly in a belt along the north, and here is good grazing-ground for the numerous herds of small, hardy cattle with which the Oudh districts abound. But groves and topes of mango and other trees are everywhere a feature in the landscape. The area is fortunately nearly all culturable, only the small proportion of 6 per cent. being otherwise; fortunately, as we may well say,—for otherwise the province would ill support, on its 23,390 square miles, a population of over eleven millions—giving an average of 476 persons to the square mile[1]. Of these, nine-tenths are Hindus. Fifty-eight per cent. of the entire population are returned as agriculturists, but this is said to be very much under the mark, because large numbers of castes live partly by agriculture.

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[1] I adopt the Anglicised form of the name of this province. Properly it is 'Awadh,' the modern form of the old Ayodhyá.

The Oudh districts enjoy what I may call a succession of harvests. Besides the harvest of rice, maize, and millets, ripening in September, and everywhere called *kharíf*, and that (chiefly wheat, barley, 'gram' (*Cicer arietinum*), and oil-seeds) ripening at the beginning of the hot season, and called the *rabí*, there is in some districts an intermediate harvest, locally known as *heňwat* or *ághani*. This is cut in December. It consists of the finer kinds of rice and a valuable oil-seed, *lahi*—a kind of mustard or 'colza,' with a remarkably large yield of oil.

Sugarcane, everywhere an important crop, does not fall in with any general harvest, as, laid down in March, it is not ripe till the following February.

These are only the principal crops out of a great variety of produce, including vegetables and melons, which appear at other seasons, almost all the year round.

I may mention that the reader of *Oudh Settlement Reports* will find that different parts of Oudh present different institutions, and show common features; for instance, we may distinguish as 'North Oudh' the districts underlying the Nepál frontier, viz. Kheri, a part of Bahraich, and Sítapur. The districts 'east of the Ghágrá' present some features common in Bahraich and Gondá. 'South Oudh,' again, includes Unáo, Rai-Bareli, Partábgarh, Sultánpur, and Faizábád.

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[1] This average is the more remarkable, as there are no large towns with a densely-packed manufacturing population to swell the average as it does in Belgium (400 to the square mile) and Great Britain (315 to the square mile). Lucknow and Faizábád are the only towns in Oudh of even moderate size. The people are therefore 'provided with food entirely from the soil on which they live, and are compelled to export food elsewhere to procure the other necessaries of life.' (*Gazetteer*, Chapter ii.)

§ 2. *Administrative History.*

The Province of OUDH, like the Panjáb and the Central Provinces, was not acquired, and its land-revenue administration did not begin, till a date when the principles of revenue-administration were fairly well established. It consequently escaped the experimental stages which the North-Western Provinces went through, including the revenue-farming system; and it had no experience of difficulties arising out of the practice of the law of sale for arrears of revenue; matters which so largely affected the tenures of the country—affected them, that is, in a new way—made changes over and above those which had come about in the course of the preceding eventful and disturbed periods over which we and our systems had no control.

The troubles of Oudh were of another kind; they arose out of a particular policy which was laid down in 1856, but which was rudely disturbed, and indeed swept away, by the mutiny of 1857. When, after the re-establishment of British authority in 1858, a new departure was made, a policy was declared, and the Government issued a proclamation, by which all estates were confiscated (except those of certain loyal landlords); but in the same breath almost, the lands were re-conferred on the TALUQDÁRS as proprietors. This gave rise to much difference of opinion. The whole controversy was, however, very much one of words from the first. It turned upon three points: (1) what was the real state of the land-tenures; whether there were surviving village communities which could be called 'proprietary bodies' or not; (2) what was the real position of the local chiefs called Taluqdárs; and (3) whether Lord Canning's proclamation in 1858 was wise under any circumstances.

As regards the third point, I have never, for my own part, been able to discover what was wrong in Lord Canning's proclamation, or how it was possible to effect any real good in the necessary work of defining and placing land-tenures on a legal basis [1], without taking the rebellion as fully justifying a *formal* confiscation of existing estates—undefined, and indeed undefinable as they were—and so far declaring a '*tabula rasa*' as to enable a fresh start to be made on a reasonable basis.

That was the object of the confiscation; at the same time, of course, it was desirable to hold out promises of liberal treatment to all who submitted at once; recognizing, as in justice we were bound to do, that the action of the Taluqdárs was very different from the rebellion of subjects who had been for some generations under British rule. How this declaration of legal confiscation, coupled with a promise of restoration to those who at once submitted, could be considered as weak or impolitic, I confess myself at a loss to understand.

As regards the first point,—whether there were proprietary village communities which ought to have been directly acknowledged and settled with as the immediate owners of the soil—it may be briefly remarked that the proposition may be affirmed in one sense and denied in another. Those who advocated village Settlements forgot the degree to which Taluqdárs had grown up over groups of villages; those on the other hand who advocated the rights of Taluqdárs, were apt to forget that even the old Aryan villages, in which no immediate (village) landlord class existed, still had individual rights over their holdings, while proprietary bodies undoubtedly existed in very many villages.

That the original and 'ancient' village-estates, where these had become integral parts of taluqas, had lost all semblance of a really independent position, may well be affirmed; and it may also be affirmed that in the days of old, under the Hindu Rájás, the landholders in villages were always held to have (practically proprietary) rights in the soil. Not only so, but many villages had (as we shall afterwards see) come into the possession of grantees, and powerful men of all classes, some of them younger sons and relations of the old kings; and these descendants formed, in the village, a class which it would be difficult in modern times to call anything else than landlords. How far the supervening authority of the Taluqdár, in the process of time, reduced or levelled down these rights, is a question of fact; as might naturally be supposed, the process had not gone to the same length in all cases. Any wholesale denial of village rights, or, on the other hand, wholesale denial of the Taluqdár's virtual position, would be equally far removed from a just appreciation of the facts [1].

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[1] Those who desire to see the case on both sides, and Lord Canning's own calm and dignified vindication of his conduct, will see it in Sykes' *Compendium of Oudh Talukdari Law*, p. 38 et seq.

Where we find that the Taluqdár had really grown into a 'proprietor,' it was, of course, under the influence of circumstances which enabled him to absorb in his own person, the various rights which had formerly been enjoyed by the villages. And, as regards this fact, the degree of 'absorption' differs. In some it is complete; the whole of the villagers, whatever they once were, are now 'tenants,' with or without some occupancy-rights. In others, individuals have either retained ancient rights in particular plots, or have obtained grants from the Taluqdár himself, limiting his own power and giving them certain rights. Or, in some cases, they may have been able (in subordination to the Taluqdár) to retain the entire management (to hold 'pakká,' as it was called in the days of the Oudh kingdom, or 'pukhtadárí,' as it is called in our own revenue language).

In one sense, therefore, it was quite impossible to say that village-proprietary bodies did not exist. On the other hand, all villages were certainly not in a position to be settled with as independent. In 1856, there was, perhaps, a too great disposition—following the policy of the North-

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[1] I am aware that so able a writer as M. de Lavaleye has pronounced against the Taluqdár's rights, but I am convinced that his opinion is based on an insufficient acquaintance with the real facts of the growth of the Taluqdárs. It is the practical position attained, at a given time, not any theory of origin, however true, that must guide a government in its Settlement policy.

Western Provinces—to magnify the actual right of village cultivators generally, and to ignore the extent to which the Taluqdárs had *de facto* become proprietors.

There was also an element of error in the orders of the Government of 1856—namely, that of supposing that the circumstances of Oudh were the same as the North-Western Provinces, and so ignoring the effect of different historical antecedents[1].

It is, however, of little real consequence what were the merits of the orders passed in 1856, for, whatever the intention was, the fact remains that *even then*, the position of many of the Taluqdár-Rájás (and others not Rájás who had attained the same position in the Oudh State) was such, that they were not, in fact, and could not be, put aside; out of 23,543 villages, we find 13,640 settled with Taluqdárs in 1856, and only 9903 settled with the village 'proprietors[2].'

As regards the second point in the controversy—the position of the *Taluqdárs*—this turned a good deal on the question whether the majority of those existing in 1856 were really the old Rájás—accepted by their people and having an assured position as of ancient standing, or were, in any large proportion, Oudh officials and *parvenu* tax-farmers who had no great claims to consideration[1]. And this point was argued, not merely on the only ground that was reasonable—namely, the results of an actual inquiry into the position of each Taluqdár who claimed Settlement, and into the real history of the villages—how far they were his by fair means, or long prescription at any rate, and how far they ought to be independent,—but on general grounds, and largely on inferences drawn from the conduct of the people who, at the Mutiny, returned to their old allegiance and paid revenue to the Taluqdárs. The fact was that the villagers did so return; no doubt this result *may* have been due to real attachment and to habits of loyalty ingrained by custom; on the other hand, it is just as likely to have been due to the fact that the Taluqdárs were there, 'backed by ample force; and in the anarchy which temporarily prevailed, the people had no other resource but to return to their allegiance.'

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[1] The orders for the first Settlement, which it is now of no importance to recall, can be seen in Mr. Sykes' *Compendium of Oudh Taluqdari Law*, p. 14. Mr. Sykes speaks of the Oudh tenures as being a 'subject of insurmountable difficulty.' I do not know what grounds he has for saying so. Most Indian tenures are difficult, but I should be inclined to say that Oudh tenures have been rather better studied, and are to the full as intelligible, as those of any given part of India. As to his idea that valuable materials which once existed perished in the Mutiny, there is not the slightest foundation for it. The abortive Settlement of 1856 was a summary Settlement, i.e.—it was *not* to make a detailed record of rights but to assess the revenue for a short term preparatory to a complete Settlement. Mr. (afterwards Sir R.) Montgomery's report on Oudh, 1859, refers to the total destruction of the records which, no doubt, were full of information as to *accounts* and *assessment details*; but there is not the least reason to think there was much, if any, irrecoverable information about *tenures*. It is strange that it did not occur to Mr. Sykes that as all the officers who made the brief inquiries between March 1856 and the outbreak of the Mutiny in the following year, were not killed, if they had accumulated stores of knowledge *about tenures*, surely some of them would, from recollection or private notes, have reproduced the substance of what they knew.

[2] See the authorities quoted by Mr. Sykes, note, p. 28. The Chief Commissioner, in a letter of 17th October, 1859, remarked that the old Settlement had been nearly as much Taluqdári as that made after 1858.

Whatever may be thought of the policy pursued, it is quite certain that when the new Settlement was made, care was taken to preserve the rights of all parties, and there is scant reason to think that either the Settlements have wrought any evil, or were practically wrong in principle[2].

§ 3. *The Subjects of Study in Oudh Tenures.*

At any rate, we need not deal any further with matters of paper controversy, but may pass at once to consider the land-tenures as they now are—a study which will naturally divide itself into three subjects: (1) the origin and growth and present status of Taluqdárs; (2) what was the actual condition of the village bodies which formed the units of which the 'taluqa' estate was made up; and (3) what was the condition of the lowest stratum of actual cultivators in the villages (tenants).

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[1] In 1858 Lord Canning wrote—'The majority are men distinguished neither by birth, good service or connection with the soil, who, having held office under the Native Government as Názims or Chakladárs (these terms will be explained presently) or having farmed the revenues of extensive tracts . . . . had abused the authority,' &c. But this is far too sweeping a statement.

[2] As Sir Robert Montgomery wrote in his *Report* of 1859 (§ 369), 'Whatever be the abstract idea of justice, whatever the principle we might have wished to see carried out regarding the tenure of the soil, the fact remains important and incontrovertible, that the superiority and influence of these Taluqdárs form a necessary element in the social constitution of the provinces.'

It is only necessary to premise that as the Settlement was, in the great majority of cases, made with the Taluqdárs, this fact forms the distinguishing feature of the Oudh Settlements. In the North-Western Provinces, as we have seen, persons holding a superior position in the nature of a taluqdárí, were only exceptionally settled with; more often they were granted a cash allowance and certain privileges, while the Settlement was direct with the villages. In Oudh, Taluqdárs were always settled with wherever their claims were apparent. Hence the Oudh Settlement is spoken of as the TALUQDÁRÍ SETTLEMENT. Of course, where the villages were not, and perhaps had never been, included in any taluqa, the Settlement was with the proprietors, just as in any ordinary North-Western district.

§ 4. *Preliminaries of the Land-Settlement.*

As a further preliminary matter, I may here dispose of the brief details which are necessary, as to the dates and duration of the existing Settlements. Going back for a moment to what has already been stated—Oudh was annexed in February 1856. The intention was to make a summary Settlement for three years. The Mutiny supervened, and the work done perished. The war ended; all lands were confiscated by proclamation in 1858[1], with the exception of the estates of six (reduced to five) loyal Taluqdárs, whose estates were added to and confirmed, and their assessment made permanent. The confiscation of the other estates was really only intended to afford a new basis, and to give free scope to a proper Settlement of all classes of rights; and notices were issued promising the restoration of estates to all who, not being concerned in murders, offered submission promptly, and obeyed the orders to disarm and dismantle their forts. Only a few estates were absolutely confiscated, and these were conferred by Government on deserving chiefs.

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[1] See the text of the proclamation in Appendix B to Mr. Sykes' book.

The first *regular* assessment was commenced in 1860, and completed from thirteen to eighteen years later. These Settlements are still in force.

We may at once proceed to consider the three subjects of our study, as above enumerated; after which a section will be devoted to the procedure followed in making the Oudh Settlements, noting the points of practice and the method of assessment wherever they differ from the practice or system of the North-Western Provinces.

SECTION II.—THE TALUQDÁRÍ TENURE.

§ 5. *Nature of the Taluqdár's Estate.*

To make it clear what a Taluqdár is, and what is the nature of his estate, as now recognized by law, we must take a brief retrospective glance at the history of Oudh.

Without going into the details of ancient history, it is enough to start with the fact, already stated more than once, that the Oudh districts had been the seat of a number of Hindu Rájás' dominions. These had varied in number and extent; being sometimes broken up by feuds and by family quarrels—members of the family setting up their estates as independent. In rarer cases, even a foreigner obtained the Ráj by conquest.

In the simplest form of society, the Rájá ruled over a number of village bodies, in which the separate cultivators were all equal. As Mr. Benett puts it, they formed a 'community' only in the sense that they were grouped together under the same conditions of life, and were represented by a common headman. The Rájá took his grain-share from each village, besides levying transit dues, ferry-fees, tax on forest-produce, tolls on arts and trades, and other 'manorial' dues, including a right to dispose of the waste for extension of cultivation or founding of new villages. But frequently there were powerful individuals or families who exercised within the village, what were in fact the same 'zamíndári' privileges as the Rájá exercised over his State generally. According to their position, they either paid nothing to the Rájá (except contributions in time of necessity) or paid a portion of the grain-share.

And then, in later times, the Rájá would, by 'birt' or grant, *give* (or rather sell) similar privileges to certain persons. Thus varieties arose in the tenure of villages, and the variety resulted in differences from a revenue-collecting point of view.

§ 6. *Change effected by the Muhammadan Conquest.*

When the Muhammadan Government supervened, it was desirous of getting hold of the 'zamíndárí,' i. e. the landlord's or the Rájá's grain-share, and some of the other dues, as well as the right over the waste. It cared nothing for the administration of justice, for tolls and various other charges, which *we* should think the most essential attributes of the Government power and at once assume control of. Even when the Muhammadan Government managed its revenue collections direct, the Rájás were left in their own states (become *parganas* of the new administration) to administer justice and collect their own manorial dues. But it was not an easy task to effect even this. The Rájás were not satisfied to give up the main source of their revenue and remain contented with the dignity and the less lucrative sources of income: and though not strong enough to resist altogether, they were able (and very willing) to give a great deal of trouble. And, even if this resistance was overcome, there were powerful 'zamíndárí' families in many villages also to be reckoned with.

'The difficulties,' says Mr. Benett[1], 'in the way of the collection of the revenue direct, were really enormous. The Rájás could hardly be expected to see the Názim's (Muhammadan governor's) soldiers realizing what they considered their own rights, without offering resistance whenever an opportunity presented itself, and went frequently into armed revolt: the numerous and warlike bodies of village *zamíndárs* found their not very adequate means of subsistence cut away from them, and could only be induced to pay the sums at which their villages were assessed, by constant compulsion, which they some times resented by throwing the villages entirely out of cultivation, and leaving nothing at all which could be sent to Lucknow.'

Naturally, then, the idea suggested itself, to make the Rájá an agent for collecting the village revenues, demanding only a certain sum, which he was to pass on to the treasury. This was a heavy sacrifice of revenue, and so the most vigorous of the Muhammadan rulers did not adopt it as a general plan; but the weaker ones did, and probably at all times it was adopted to some extent. In fact, the history of Oudh before annexation, largely consists (from a revenue-point of view) of alternations between attempts of the State to collect the revenues direct, and having recourse to collections through Rájás and others under the denomination of Taluqdárs.

§ 7. *Formation of Taluqas.*

Let us see how the groups of territory which formed the taluqas took shape, and how the 'Taluqdárs' actually acquired 'estates.'

That this plan of collecting revenue, and at the same time conciliating the Rájás, should have been adopted, is not surprising. The kingdom of Oudh was so insecure from the Rohillas, and, in later times, the Maráthás, not to mention the turbulent landlord communities within, that, in 1801, we know, the rulers felt unable to hold on without the aid of a regular British force, to subsidize which they

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[1] *S. R.*, Gondá, § 93. The whole passage, pp. 53-57, is well worth perusal.

'ceded' the Doáb districts of the North-Western Provinces, forming in fact a belt of country all round Oudh, on the east, south, and west, as a glance at the map prefixed to this 'Book' will show.

The old Rájás, however, did not survive, even in their limited dominions, intact. The effect of mutual jealousies, family feuds, and so forth, was to break up the old 'Ráj' territories into subdivisions or smaller groups, so that in the end the actual *taluqa* estates were by no means conterminous with the former Hindu (Rájput) kingdoms.

> 'One of the principal results of the strong government' (of the Oudh kingdom in its best days), writes Mr. Benett, 'was that the younger branches of the ruling houses almost invariably cast off their allegiance to the head of the clan, and when we again find the Hindu element assert its predominance (as the Taluqdárs of the later kingdom) the ancient Rájás have yielded the leadership to the most able and vigorous among the cadets, the small States have been split up into a number of still smaller baronies, which formed the basis on which the present *taluqas* are founded.'

And then came the last act in the drama—the support of the decaying Oudh kingdom by British bayonets: that was the time when, under the pressure of well-meant but erroneous advice from head-quarters, the attempt was made to get rid of the representatives of the Hindu Rájá, and substitute direct management of názims or chakladárs. 'In single instances,' says Mr. Benett, 'all over the country, the result was gained; and there is hardly a Ráj—perhaps not one in the whole province—which was not at one time or another held by Government officials dealing directly with the tenants, while its (Hindu) chief was in flight.' But such attempts to upset the natural development of institutions end in failure, and 'there is perhaps hardly a case where the chieftain did not return, after a dispossession of a few years, and recover, if not his whole property, at any rate a large number of his villages.' Still, the result of all these changes was materially to alter the limits of the old jurisdictions.

§ 8. *Illustration from the old Gondá Ráj.*

Mr. Benett illustrates the transformation of the Hindu Ráj into the later *taluqa* by the example of the old Gondá kingdom. I should like to quote the graphic account as it stands, but space compels me to state more in abstract, what happened.

The kingdom of Gondá was one of those which, on the establishment of Muslim supremacy by Sa'adat 'Ali Khán, was maintained so far intact that Rájá Datt Singh accepted a 'sanad' and agreed to pay a tribute. His estate then covered an area of about twelve hundred square miles. But about the close of the last century, the then Rájá (Ṣiva Parshád Singh) was in revolt, and was defeated and slain, in battle with the Lucknow forces under a British officer. His heir was a boy, ten years of age, under the guardianship of his uncle, Hindupat Singh. In the State, a banker, named Chain Pánde, was one of the principal *employés*. He died, and his three sons remained—ever watchful of the interests of the young Rájá. They discovered that the guardian had plotted to murder the boy and seize the inheritance; accordingly they averted the calamity by the Oriental method of murdering the guardian and his children, instead. Taking this as a pretext, the Oudh Government thereon seized the principality and took the boy-heir prisoner. The estate was then made over to one of the Oudh Begams[1], whose officers proceeded to collect the revenues. The villagers, however, naturally cherished the memory of their Rájá, and the rulers of the time came to find it their interest to restore him. The result was that he got back his estate, but only part of what it once had been; while (not unnaturally) the descendants of Chain Pánde, the Brahman banker, by the influence of their high caste and the service they rendered, got another portion. Thus arose two estates, which became 'taluqas'—the Rájá's of some 250, the Brahman's of 350, square miles;

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[1] Queens, or ladies of the Court.

the rest of the old Ráj went elsewhere, perhaps to descendants of the Begam's officers.

This sort of dismemberment and subdivision is a specimen of what happened everywhere.

§ 9. *Other Cases of Taluqas.*

But there were cases where there was no Rájá, or where the 'landlord' communities—more or less independent—were strong: here the plan of contracting with some leading 'zamindár' or some local capitalist, suggested itself. And in the days of decline, mere court favourites and speculators would occasionally secure the contract for their own benefit.

In Bahraich it is mentioned that Taluqdárs sometimes arose when some one member of an ordinary coparcenary village estate excelled in courage and prudence, and so took the lead, first becoming recognized as owner of his own village, and then, by various means, 'protecting' other villages all around, till in the end he erected a considerable estate.

§ 10. *Question of Policy regarding the Employment of Taluqdárs.*

I must say a few words about the variation in policy regarding the employment of Taluqdárs. I mentioned that the plan was never wholly acceptable to vigorous rulers, and it was objected to, later on, by the British advisers of the Court.

The Oudh province, it will be remembered, was at first only a subordinate member of the greater Delhi empire; but we may pass over those days, and come to the time when the Oudh Deputy assumed independence. Among the six kings who ruled during the first half of the present century, i. e. up to the time of annexation, only two deserve any mention as having endeavoured to fulfil the functions of a ruler. One of these was Sa'adat 'Alí K͟hán who ruled from

1798 to 1814: his reign was marked by a complete revision of the land-revenue of the kingdom—the details being carefully preserved in the accounts of the *kanúngos* of *parganas*, and the *patwárís* of villages. This indicated direct State management.

I have not discovered details as to exactly when the system of collecting the revenues through local nobles or men of influence, began. As a system, it has its bright side as well as its dark: there may be circumstances under which it is demonstrably the best, though it is, naturally, always liable to abuse. It is also very easy to represent it in dark colours, and it is impossible to judge correctly without an accurate knowledge of the real facts, and of the conditions under which it exists.

In the palmy days of the kingdom, it may have been the case that the public welfare was best secured when the State officers dealt directly with the headmen of the villages, and the collections were paid into local treasuries, the system being worked by a graded series of officers, beginning with small local charges, and ending with the government of a large tract of country, the whole under the thorough control of the State. But, even under the best administration, the task of direct collection was fraught with difficulty, as I have stated. And naturally, the difficulty became greater as the administration grew worse. Directly the reins of government fell into feeble hands, the accounts were falsified, the revenues fell off, and the people were oppressed. Bands of freebooters prowled about the country; village was set against village, and the revenue was never collected without a free fight and something very like a siege on the part of the Government officials. Then the temptation was great for the lazy ruler and his court to shirk the duty of control, to ignore details and the protection of each several village, and to bargain with capitalists for a certain sum of revenue from whole parganas or other convenient groups of land, larger or smaller according to circumstances.

The existence, in some districts, of Rájás whose recognition both policy and justice had invited, no doubt encouraged such a system, and, in fact, very probably suggested it in the first instance. At any rate, we have two causes for the taluqa system—*first*, the necessity for conciliating and employing the old chiefs; *secondly*, the desire of an indifferent governor to save himself trouble in revenue-management.

Where the taluqa system is carried out without regard to anything but money;—where harsh and greedy speculators are put in who have no hold on the traditions of the past, and no place in the hearts of the people,—the evil done will be great. Where, on the other hand, the persons employed as Taluqdárs are the old aristocracy, accepted by the people and willingly obeyed, the plan is by no means always, or necessarily, a bad one.

§ 11. *The British Government urge the Oudh Court to abolish the Taluqa System.*

So little, however, did these alternatives suggest themselves to the English advisers of the Oudh court, that the evil of a taluqdárí system was assumed without any distinction; and the authorities pressed on the Oudh Government the desirability of returning to the direct system of revenue management[1] by State officers, irrespective of their intentions or ability for control. And in the reign of Muhammad 'Ali Sháh (A. D. 1837–42) the direct system was actually restored; the parganas were parcelled out into 'chaklás,' and the revenues of each chaklá were managed and collected by officers called *názim* or *chakladár*. In a very short time, however, it was found that these officials, uncontrolled as they were, were not better, but worse, than the Taluqdárs. They exacted just as much in the form of cesses and presents—over and above what they paid into the treasury—as anyone else; and that without any of the kindly feeling and indulgence that the old representatives of the 'Ráj' must have felt and exercised towards their people. No doubt all Taluqdárs, and especially those of later origin, were grasping, and often resorted to unscrupulous means of getting villages; moreover, they fought one with another and seized each other's villages freely; but these fights and factions brought excitement to a martial people, and were not without their compensations; and it is impossible not to believe—when we recollect such examples of honourable conduct as the Mutiny itself elicited[1]—that there must have been, in the midst of all the turbulence of the times, a certain admixture of rough-and-ready justice and clan affection, affording protection to the people under the influence of a patriarchal feeling towards the Rájás, and backed, in the Rájás themselves, by a certain feeling of responsibility and of '*noblesse oblige.*' This it was that made the rule of a real old Taluqdár so much more tolerable than that of a banker or an alien official of a corrupt and indifferent Court.

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[1] See the details in Sleeman's *Journey through Oudh*, vol. ii. pp. 200-7. The General justly remarks that an uncontrolled official collecting the revenue at the point of the sword and under fire of his guns, was not one whit better than the system of leases of taluqas. The former was then spoken of as the *amáni* or khás system, the latter as *ijára*.

§ 12. *The Estates show Effects of both Systems.*

It is necessary to bear in mind the fact that (before annexation) Oudh revenue-affairs had been at one time under the control of Taluqdárs, bound to pay a fixed sum to the treasury (the State taking no account of the detail of village collections within the taluqa), and at another under officials called názims or chakladárs; because, in the end, the *estates*, as they came into our hands, *showed the effects of both systems.* They were neither altogether the estates of old Rájás, nor altogether the districts of officials and farmers and speculators, but a mixture of all.

And this fact gave rise to the names—found in Oudh books—of 'pure' and 'impure' Taluqdárs; the former being the old Rájás, the latter being the court favourites, pushing speculators, or officials, who got possession of

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[1] See Introduction to the *Gazetteer*, Chapter ii. p. 30.

'sanads' or State grants of areas, called them taluqas, and managed them to their own advantage.

§ 13. *Inquiry in* 1858.

When, after the rebellion and confiscation of estates in 1858, inquiry was made as to the persons best entitled to be settled with, it was found that, in a majority of instances, the old families, or representatives of them, were in possession of taluqas. The estates were restored to all who submitted; the villages given were those claimed and allowed after a brief—perhaps too brief, and not always satisfactory—local inquiry; and the only terms exacted were submission proved by giving up of arms and forts, and admitting the right of Government to make *complete provision for all subordinate rights in the taluqa.* The provisions were embodied in the 'sanads' or title-deeds which were afterwards issued[1].

§ 14. *Primogeniture and Alienation.*

When all the preliminary inquiries were complete, a very natural question arose about the future prospects of these estates. Some of these were (as I have stated) ancient possessions of 'pure' Taluqdárs; some had been acquired by 'impure' Taluqdárs (i. e. had come into the hands of persons not originally of Rájás' families); while the British annexation added yet a new class of taluqas, which were

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[1] I have before mentioned that five loyal estates were not confiscated, but were confirmed on a permanent Settlement to the owners.

I do not think it of the least importance to the student to go over the correspondence that arose, when Sir Charles Wingfield was Chief Commissioner, as to exactly what title should be conveyed, and whether the clause about sub-Settlements should be entered. If any one is curious about the matter he will find the whole in Mr. Sykes' *Compendium*, pp. 66-111, and the form of 'sanad' at p. 385, Appendix E (II). The loyal Taluqdárs' sanad is shorter, and says nothing about a sub-Settlement. In reality this made no difference, as the Government retained full power to legislate on the subject, and its intention to maintain all rights not forfeited for unpardonable misconduct, as they were before, was never doubtful, in one estate any more than in another. This is all clearly explained in a letter of the Government of India (12th September, 1860) printed by Mr. Sykes at p. 115, and is further affirmed by Section 4, Act I of 1869.

'conferred' or granted,—i.e. these were estates really confiscated from persons who refused to submit, and which were granted by the Government, e.g. to the Rájá of Kapúrthálá (in the Panjáb), who has become a great Taluqdár in Oudh. If left to the usual law of inheritance, these estates would soon split up into ever-increasing subdivisions, and completely lose their character as taluqas. It was therefore a question how far any rule of *primogeniture*—which would cause the estate to remain undivided for ever—could be enforced, and how far a power of transfer, and especially of bequeathing the estate by will, should be recognized and regulated[1].

It is unnecessary to go into any discussion of the merits of these questions; they have all been set at rest by the Oudh Estates Act I, of 1869, as amended by Act X of 1885.

§ 15. *Résumé.*

The result of this disquisition may be practically summed up.

The term 'Taluqdár' cannot be defined exactly; because the holder of the estate, as it now is, has had a various origin. We cannot, in all cases, say that he is a descendant and representative of the old Hindu Ráj, who accepted a 'sanad' and paid tribute to the Mughal Government, for that would only meet many, but not all, cases. We cannot either say that the Taluqdár was a revenue-officer of the State, converted into a superior proprietor, for that would only be true to a limited extent.

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[1] The student is aware that though the usual Hindu law of inheritance (under its different varieties) contemplates the division of estates; the 'gaddí' or throne and the royalties of a royal family, descend to the eldest undivided; and the same rule prevails throughout the feudal gradations of the Rájput kingdom not only in the succession of a Rájá or Mahárájá, but also of the Ráo, Rána, and other magnates. The question is, exactly where the rank of the family ceases to be such that there is a 'gaddí,' and that primogeniture applies. Looking to the nature of the taluqas and the origin and status of some of the holders, it was a question in *some* cases—though of course not in the 'pure' families—whether primogeniture should apply or not. (See vol. i. chap. IV. p. 244, ante.)

The word taluqa (as we shortly write it, to avoid the inconvenience of the more correct 'ta'alluqa') is derived from the Arabic root 'alq, which implies 'connection' or 'dependence[1].' So that a Taluqdár may be said to be a person recognized by the State, either by *sanad* (warrant) or otherwise, as managing (and indeed contracting for) the revenues, and having the general control of an estate which was defined originally by the area over which his influence extended, or by local considerations of existing *pargana* divisions. The estate ultimately consisted of villages which were either wholly or partly, and in some stronger or weaker sense, the 'property' of their recognized holder. The sanad of 'Taluqdár' made such an estate-holder 'dependent' on, or in connection with, the central power[2]. The Muhammadan system did not aim at definition. For modern purposes, all we need say is that a 'Taluqdár' is a person whose name is entered in a list, which, under Section 8 of the Oudh Estates Act (1869), is provided to be prepared; and that he possesses such rights as the Act specifies, and as subsist in conformity with other laws securing the position of the village bodies and the rights of tenants, and long since made perfectly clear by the records of Settlement.

We may summarize the origin of Taluqdárs, as—

(1) 'Pure'—descendants and representatives of the old Hindu Ráj, however subdivided or dismembered.

(2) Muhammadan *Názims*, court favourites, bankers, or others, who were granted, or who acquired, by

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[1] Mr. Carnegy (*Notes on Land-Tenures in Upper India*, Trübner, 1874) says the word 'alq means a '*leech*'—one hanging on to another body; but in fact this is only one of very many secondary meanings to be got out of 'alq, of which the primary sense is 'depending,' 'hanging on to.'

[2] Or perhaps the 'dependency' refers to the villages being dependent on the overlord; collecting, as it were, about his protecting domain, and hanging on to him.

It is somewhat curious that this word should have come in time, to mean any moderate group of villages forming a tract for revenue purposes, and so to have been adopted by the Maráthás and others, till now it indicates the principal local subdivision of districts in Western and part of Southern India (being written táluk or táluká in the Hindi dialects).

influence in troubled times, by sale, mortgage, and by standing security for revenue-payments, and often by force or fraud, the overlordship of villages which they got into their power[1].

(3) Military grantees (of jágírs, in fact) who became Taluqdárs[2].

(4) Special 'grantees' on whom the title was conferred by the British Government. Such was the great estate of the Panjáb Rájá of Kapúrthálá, granted in Faizábád, &c., for services, in place of former owners whose estates were absolutely forfeited.

All Taluqdárs now hold by grant from the British Government: that is their only legal title. Some estates are indivisible, and descend to the eldest son; also others are divisible and governed by the ordinary rules of inheritance, as provided by the Estates Act[3].

§ 16. *Nature of the Taluqdár's Right over his Villages.*

Next, as regards the nature of the proprietorship, or extent of the connection which the landlord actually holds with each village: this varies considerably, according to circumstances. The subject naturally can hardly be fully understood till we have considered the history and present condition of the villages; but we have already (pp. 199, 200) briefly stated that there were always, at least in some parts, cases in which, by the effect of grants, and sales under the guise of grants, proprietary communities grew up inside the village, or where certain families assumed the 'zamindári' position. When the villages came under a *taluqa*, they preserved different degrees of right, and also in later times secured from the Taluqdár (as such), by sale or grant, certain privileges. By the time the Taluqdárs were established as an institution, the revenue was habitually paid in money; in many cases, the collection of the village-revenue was arranged for by employing a lessee, who engaged to make good the necessary amount, together with so much more for the Taluqdár himself. Then the Taluqdár had little else to do but sit at home and receive the rental or amount of the 'theká,' and pay in such part of it as was fixed (by custom or his grant) to the Government treasury. His virtual connection with the village was then but slight.

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[1] An interesting article will be found in the *Calcutta Review*, 1866, 'The Taluqdári tenures of Upper India,' which gives details about how the taluqs were formed; and see Sultánpur *S. R.*, 1873, p. 48.

[2] Bahraich *S. R.*, p. 88. In the Ikauná estate the taluqdári had been acquired seventeen generations ago by a Risaldár (cavalry officer), and for seven generations afterwards this military title was kept up by the descendants.

[3] See Erskine's *Digest* (Settlement section V, § 11, &c.).

But in other cases the Taluqdár maintained a much closer connection. For one thing, if he was the old Rájá of the pargana, he retained much of his ancient privilege of management: he administered justice, decided disputes, and, in short, was very much what he had been in old days, only that now a large part of the State revenue went to Lucknow, though he had the collection of it, and probably took a good deal besides the fixed sum he was bound to remit to the treasury. Then again, under the Native rule, the Rájá had the disposal of the waste[1],—at any rate in all villages in which a landlord community had not grown up. In the course of his revenue-management, he had to look out for the efficient cultivation of his lands; and no one doubted his ability, if he was strong enough (for 'might' was his 'right'), to put in this man and turn out that, in any village-holding he pleased. It naturally follows that the closer the connection of the Taluqdár, the weaker would be the surviving position of the village-owners; whereas, the less he interfered, the more complete the independence of the landholders would remain. Moreover, the extent of the Taluqdár's interest in the villages depended not a little on his own action in the course of dealing with them.

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[1] Bahraich *S. R.*, p. 88.

§ 17. *Grant of Rights by the Taluqdár.*

In the *Gazetteer* I find it remarked that in earlier times the north of Oudh (Kheri, Gondá, and Bahraich) was largely waste, while the south was better cultivated; in the former, therefore, when Taluqdárs were able to establish or revive villages, the tenants became more completely subordinate. 'A tract of waste land would be made over . . . . to some enterprising soldier or courtier, or some cadet of a house already established. In such a case, the lord's position would be from the first, absolutely independent, as all the people settled by him would be his servants and dependents, and would have no rights but what he granted, or perhaps, in after times, sold[1].'

The great Chardá 'iláqa and the Nánpárá estates were formed in this way, and so the Ikauná estate, which was made over to a Risaldár (leader of cavalry) to keep order in the country and bring it under cultivation. It was in these northern districts that many 'birt' grants were made to clear the waste.

But equally in more settled parts, the Taluqdár made *grants* by which he conferred proprietary rights (in subordination to his own general superior right) to various extents, whether to the whole village, or to specific lands. He also made various concessions to settlers on his estate, or to founders of new villages or hamlets added on to older ones.

Hence it may be that in some taluqas the Taluqdár is found almost the direct owner of a large portion of his villages, which are either composed only of tenants or of under-proprietors with very weak rights; in others, almost every village will have a quasi-proprietary body, possessing rights called 'sub-tenures' of different kinds, and in some cases protected by a sub-settlement; here the

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[1] *Gazetteer*, vol. i. p. 177.

Taluqdár is hardly more than an overlord entitled to his cash profits.

'It is well known[1],' says Colonel Erskine, in the *Oudh Digest of Circulars*—

> 'that the rights of the inferior proprietors' (i. e. the villages comprising the taluqa) 'will be found in different degrees of vitality. In some the Taluqdár has succeeded in obliterating every vestige of independent right and making the former proprietors forget it too. In others . . . he has reduced them to the condition of mere cultivators. In some cases, though he had originally brought the village under his sway by force or trickery, the Taluqdár has permitted the representatives of the old proprietary body to arrange for the cultivation, receive a share of the profits, and enjoy 'manorial' rights. In some, again, he has left them in the fullest exercise of their proprietary rights, paying only through him (but at a higher rate to cover his risk and trouble) what they would otherwise have paid direct to the State. These (latter) are what are called "deposit" villages, the owners of which voluntarily placed themselves under the Taluqdár to escape the tyranny of the "Názims" (Government revenue officers).'

It must be remembered that, under the Native Government, the effect of the placing of a village in a taluqa was to strike it off the revenue-rolls of the Government. The list only took account of taluqas and of such villages as remained unattached to taluqas[2]. When once a village got into a taluqa, it depended on circumstances how much right passed to the Taluqdár, and how much remained to the villagers.

§ 18. *Local Extent of Taluqa Estates.—'Deposit Villages.'*

As to the *local extent* of the estates in old times, as already remarked, it was uncertain: it consisted of as many villages as the chief originally owned or had conquered and could keep; or on the number of 'deposit' villages which gathered under his protection. For it is to be remembered that when the taluqa system became general, it was very difficult for the villages to dispense with protection; and in not a few cases they voluntarily 'deposited' themselves under the protection of a powerful neighbour.

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[1] Quoted from Section V, § 12, p. 93.

[2] *Administration Report*, 1872-73, General Summary.

The *extent* as well as the *title* of taluqa estates is now legally set at rest by Act I of 1869. The 'estate' extends to all property acquired or held in the manner mentioned in Sections 3, 4, or 5 of the Act, or conveyed by special grant of the British Government.

Section 3 includes in the estate all villages which were settled after 1st April, 1858, with the Taluqdár, and for which a taluqdárí sanad was granted, and which were included in his qabúliyat, or were decreed to him (even if not so included) by order of court. Section 4 covers the case of those loyal Taluqdárs (mentioned in the 2nd Schedule) whose estates were not confiscated; the qabúliyat which they executed after 1st April, 1858, shows the extent of their estate. Section 5 covers the case of any special grantee.

At Settlement, also, a formal decree was recorded for every village, declaring that it was, or was not, part of such and such a taluqdárí estate[1].

§ 19. *Size of Estates.*

The typical taluqdárí estates are often, but not always, large. This circumstance, moreover, is not of a crucial character. At one time a question was raised whether the smaller estates were to be called taluqdárí at all. This question was decided in the affirmative, provided that their real nature was taluqdárí[2].

It would appear, however, that out of 23,049¼ 'mauzas' or villages in the province[3], 13,161½ belong to 'Taluqdárs' of all classes; thus:—

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[1] *Digest*, Section IV, §§ 24 and 29.

[2] *Circular* 19 of 1861, § 3.

[3] *Agricultural Statistics* 1886-87 (Returns to Secretary of State). I have added together the primogeniture estates and those that are governed by the ordinary law of inheritance.

	No. of estates.	No. of villages comprised.	Average area of each estate.
			Acres.
Taluqdár estates paying over R. 50,000 annual revenue	40	7446½	117,300
Taluqdár estates paying between R. 5,000 and R. 50,000 . . .	104	5165	18,598
Taluqdár estates paying less than R. 5,000	48	228½	2495
Smaller grantees under Act I of 1869	159	321½	984

There are, therefore, many smaller estates (those in the third and last lines of the table), which were tenures of lesser note, subdivisions and fragments of greater estates, as well as minor holdings of grantees and other persons who, though not exactly Taluqdárs in the sense above described, had an overlord right over certain villages, and were therefore reckoned as Taluqdárs under Act I of 1869 (section 5). As a list of these (No. 5, under section 8) was prepared, it can never be doubtful who or of what kind, the grantees are.

There are also a very few estates where there was a still lower type of overlord right; and these cases, though 'taluqdárí' in the sense of double tenure defined in Thomason's *Directions*, do not come under Act I of 1869. In them the North-Western practice was followed; the villages were settled with direct, and the 'superior' given a cash or málikána allowance, i. e. a cash allowance in lieu of actual management[1].

§ 20. *Some Taluqdárs have other Titles.—Oudh meaning of 'zamíndár.'*

It will be observed in the 2nd *Schedule* to Act 1 of 1869 that, one or two of the loyal estate-holders there excepted, have the title of 'Zamíndár.' This, however, is only the rather inaccurate title used, without precision, when the original proclamation issued, and maintained because the list was embodied in the Act, exactly as it originally stood. In Oudh the term *zamíndár* is only used to signify a managing holder of land; and when the Taluqdár became overlord, the 'zamíndárí' of the villages (i. e. the managing right) indicated the under-proprietor's right (*cf.* p. 182). There are, however, a number of landlords, mostly small owners, who remained independent of any Taluqdár; and in the Statistical Returns furnished to the Secretary of State, twenty-two tolerably large estates are shown, holding between them 219 villages, as 'Zamíndárí,' while a still larger number (paying less than R. 1000 revenue annually) are enumerated. The greater ones are the estates of persons who, as the result of the direct management, or otherwise, did not happen to become incorporated with any taluqa. These, therefore, are Zamíndárí (landlord) holdings in the ordinary, not in the special, sense (just explained); they are in fact estates, where *there is only one grade* of proprietary interest.

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[1] *Digest*, V, § 17. Colonel Erskine, Commissioner of Lucknow, writes to me—'There are hardly any of those; I can only recall a few such cases in one taluqa.'

SECTION III.—VILLAGE TENURES AND SUBORDINATE RIGHTS.

§ 1. *Forms of Village.*

Under the Taluqdárs, the units of the estate are the villages; and, as already intimated, there are in most districts some villages which are independent of any Taluqdár. As to these groups of land, they do not in themselves appear in constitution different from villages elsewhere, except perhaps that there is a less tendency to fix the residence of the cultivators in one central spot; and that there are more scattered residences,—small groups of houses forming detached hamlets as near the fields as possible[1].

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[1] 'The village in Oudh is not a single collection of houses, but a small arbitrary revenue division. . . . The number of hamlets in any

The villages are now all either included in taluqas or independent. All, of course, will be really of the same varieties or species; only that where villages had long been in taluqas, there was a *tendency* to lose the original features, and to become merely aggregates of cultivating holdings, equally subservient to the Taluqdár. Such villages as hold a sub-Settlement are now protected, as far as law can protect them, from further alteration.

The statistical returns do not classify the villages inside the taluqas, but give us details of the villages *not* included and settled with separately as proprietary bodies. These are classified under the old-fashioned divisions of 'zamíndárí,' 'pattidárí,' and 'bhaiáchárá,' with the 'imperfect' form of the two latter.

§ 2. *Origin and Growth of Villages.*

Oudh is a country which was, as I have remarked, the centre of the Aryan civilization[1]. It represented, in fact, just the ideal organization of states, revenue-divisions and village-groups, which formed the basis of the description contained in the *Institutes of Manu.* It is important as affording conclusive evidence that 'landlord-villages'—those in which a joint-proprietary body exists, claiming the whole area—certainly grew up, at a later stage, over and among pre-existing villages that were raiyatwárí or non-landlord in type. And there is every reason to believe that, though some landlord-villages represent the settlement of

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particular village varies with its area, and with the convenience its lands offer for building, from only one to sometimes as many as fifty.' (*Gazetteer*, Introduction, p. xiv.)

In former days the chief lived in a kind of fortress which is thus described: 'A large area was planted with bamboos and prickly shrubs through which narrow winding paths led to an open centre surrounded on all sides by a moat. On this the family of the chief himself, the servants, soldiers, and a few artizans in wood and iron, tenanted a cluster of mud cottages in which the best was hardly to be distinguished from the worst.' But this place was the centre of protection and the basis of operations in the Taluqdár fights of those days.

[1] I should like here to acknowledge my indebtedness to Mr. W. C. Benett, C. S., not only for his admirable account of the 'Raj' (Gondá *S. R.* pp. 37-64) but for valuable information communicated by letter.

conquering tribes and bodies of adventurers, who, in virtue of conquest and high or military caste, claimed landlord rights from the first and allotted the land on some one of the known principles (as in the North Panjáb and other parts), yet the bulk of the landlord villages in the North-West and Oudh were not of this class, but grew up *over* a pre-existing form.

Passing over the organization of the Aryan territory into petty kingdoms and principalities of lesser chiefs (which I have elsewhere described), and coming to the village groups, all our evidence points to the fact that these villages were formed either by groups of conquered cultivators or of the Rájá's people, who either settled on the waste or occupied the lands whence earlier tribes had been expelled. And no historical evidence takes us back to any other state of things than that already described, where each villager held his own fields or holding on the title that he was the 'first clearer'—the reclaimer of the field from the virgin forest or waste. Very probably it was the produce that was looked on as the subject of property rather than the soil. The cultivator did not regard himself as a co-sharer in a certain area of territory, but as entitled to the crop his hands had raised, with the exception that he had to yield a part of it to the Rájá and a part to the village artizans and menials, &c., who rendered service to him and his fellows in common.

In such a village there was a headman, who was soon adopted (so to speak) into the State system, and was partly hereditary, partly appointed by the Rájá, and endowed with a revenue-free plot and with certain privileges, in return for which he (with the writer-accountant) saw to the due collection of the Rájá's grain-share, and was generally responsible for the peace and good behaviour of his village. The waste area adjoining such a village was *used* for grazing, cutting fuel, &c.; but the village cultivators never thought of it as their common property, to be (on occasion) divided among them in definite shares.

But the Rájás usually had minor officers, courtiers, servants, and members of the family to be rewarded, supported, or aided. These were not persons of such importance as to have separate 'feudal' estates, but they were provided for by being allowed to take, in individual villages, the whole or part of the Rájá's grain and other rights. Not only so, but when, in the course of events, a state broke up, or a minor chief's estate was divided by partition, individuals or families got single villages (or more than one) on the same terms. Once in this position, they gradually seized on the waste, which they cultivated to their own profit and became the landlords of the entire estate or village; the original cultivators became their 'tenants.'

Thus in most villages would be found families of Kshatriyás (Chhatrís), and of the ubiquitous Brahmans—so necessary to Hindu social life—and, in later times, Muhammadans, who gained a footing in the villages in one way or another. Often, too, the Rájá made 'sankalp,' or gifts of plots of land, to Brahmans in the village. Or he would make a grant for support (jewan birt), to his relations, or a grant for a money consideration; and the grantee's family would gain the whole village in time, or at least a leading position in it. These families, in the course of time, multiplied into bodies, claiming equal rights and sharing the profits according to the system which they recognized.

Moreover, leading families often gained a new position, without any alienation of the Rájá's rights. They began by being recognized or appointed as *managers*, and ended by forming a proprietary community over the village.

When the gradual increase of population and the more general use of coined money combined to bring about the substitution of cash-payments for the old grain-share, the control and management of the villages became increasingly necessary. For the interests in the village became numerous; it was too complicated a business to take grain-shares, or even payments in cash in detail, from each cultivator or co-sharer; so a lump-sum was assessed, and the leading family or families were allowed to pay it up primarily, and recover it in detail from the villagers, who thus came more and more under their control. The managing families required remuneration for this responsibility and labour, and were therefore allowed a deduction from the revenue, which they retained for themselves; and they were allowed to hold their own private or family lands (sír) at lower rates than other people. The deduction from the revenue, when that became a sum of cash, was calculated at a fixed sum in money, and was called 'nánkár' (an allowance for subsistence or 'bread'). It might also be paid in the form of land held revenue-free to the fixed amount.

These families were also supported by the wealth gained in wars; for their cadets did not crowd the lands, but went away to serve in the armies, and could send their savings and their booty home. This enabled them to buy up land and grow in power.

Subordinate proprietary rights were also acquired by the sale of rights for a consideration; but this was done in later times, when the Rájá's position was more precarious[1].

The communities that were thus formed, took the lead in everything, and the old original inhabitants—if there were any—or the humbler members of the same or other, castes became the 'tenantry.' To these families engaging for the revenue, the managing right or title to the village (called *zamíndárí*) was attached[2], in subordination to the overlord.

When families which had gained the superior position in one of these ways in a village, became large enough to divide, they might either adopt the *ancestral* plan of sharing, or some other. In the Mahádewá pargana, of Gondá district[3], we find that a clan of the Goráha Bisen tribe had settled as conquering landlords. They were of that class which had no Rájás and chiefs of their own, but adopted what the writers call a 'republican' constitution. They acknowledged, however, the general suzerainty of a local (Kalhaṇs) Rájá. In virtue of their power and position, they obtained in all their villages a grant of the Rájá's grain-share—or, as we should say, the revenue-free holding; but this did not give them the whole managing right, nor the waste and 'manorial' dues. It came to pass in time that this clan gained a victory for the Rájá, slaying a Moslem enemy in single combat; whereon the clan asked and obtained a grant of the full 'zamíndárí' right in their villages; and these in after times never came under any taluqa. These villages are therefore still independent landlord villages, holding on the bhaiáchárá principle.

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[1] See *Gazetteer*, Introduction, p. lvii.

[2] See also the same circumstance noted in the Murádábád District, North-Western Provinces (p. 182, ante).

[3] Gondá *S. R.*, § 88, p. 51.

Had these various landlord bodies remained unaltered, the Oudh villages would now exist in the same variety of form as in the North-Western Provinces; but the change of the Rájás into Taluqdárs, and the growth of the taluqa system generally, caused many of these villages again to sink into an inferior position under the Taluqdár landlord; where that has been the case, only fragments of the older rights now survive. Some villages, however, escaped absorption altogether; and, where the taluqas were established, new (subordinate) rights were granted or recognized by the Taluqdárs themselves (as we shall see later on).

The returns do not, as I have said, inform us how many villages of each class are now held *subordinate* to Taluqdárs; but those which were strong enough to maintain independence are given (as for all Oudh), thus:—

	Number of estates.	Comprised in how many villages.	Average area.
			Acres.
Zamíndárí	3102	2956	525
Pattidárí	1368	585	297
Bhaiáchárá	212	168	622
Mixed or imperfect[1]	3594	3738	633

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[1] It will be observed that by this official form, by far the largest number of villages are virtually excluded from classification; be-

There are but few villages due to the expansion of families of revenue-farmers or auction-purchasers, dating from our own early revenue-system, as in the North-Western Provinces, because Oudh never knew that system, being only annexed in 1856. But cases will be found of 'zamíndárí' and 'pattídárí' villages, which are analogous, and due to the intrusion of officials and farmers under the Oudh Court; and some will also be due to associated bodies of colonists holding by 'ploughs.'

§ 3. *Résumé of Village History.*

Thus in Oudh we have three stages:—

(1) Original villages under Aryan Rájás, whose individual right to the clearing was recognized (now called bhaiáchárá in official records).

(2) Growth of leading families, either under the Rájá, or under him when he became Taluqdár, or by their own force and action, who have multiplied into communities of landlords, claiming the whole village, and holding either undivided, or on ancestral shares, or on the 'republican' (real bhaiáchárá) principle: (managers and farmers of single villages acquired a zamíndárí position also in the same way).

(3) Villages become absorbed into taluqas; and according to the existence or non-existence of 'zamíndárí families,' become wholly tenants of the Taluqdár, or subordinate proprietors under him, in varying degrees—from having a right over the whole village, to having the right only on certain plots or portions of it. Only the strongest and those peculiarly situated, remain 'independent' of any taluqa.

With reference to the (3) head, it should be remarked that

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cause 'imperfect' really means nothing but that a part of the land is undivided; hence *in themselves* these 3594 estates may be either zamíndárí, pattídárí, or some kind of bhaiáchárá—how many of each we do not know.

it was not easy to escape being taken into a taluqa—and in some cases it was desirable; and we have already noticed the case of 'deposit' villages, where the managing-body (if there was one) or the cultivators, voluntarily placed themselves under the protection of a powerful Taluqdár, either to escape the oppression of another Taluqdár, or to avoid the exactions of a Government officer, who collected the revenue as long as the village belonged to no taluqa[1].

§ 4. *Varying Degrees of Surviving Right in Villages.*

It will not be surprising to find that *now*, in villages which came under the Taluqdárs, rights survive in various degrees and forms. If there has not been any growth of a grantee, or of a managing head, then, of course, the villagers have no rights, except as occupancy-tenants; perhaps not even those. Where there are old 'zamíndárí' families, from pre-Muhammadan times, these may have succeeded in retaining a *subordinate* proprietary interest in the whole village, or only in some parts or in particular plots. In such villages the *existing* rights are due to recognition by the Taluqdár himself, after his position, as such, was secured; and then they are according to his grant, whatever earlier rights they may represent or be substitutes for.

At Settlement it was a matter of the first importance to ascertain the different degrees of right, and make legal provision for their security. All these questions had to be determined by rules which were gradually framed for the purpose,—now embodied in the sub-Settlement and Tenancy Acts: and, to facilitate the disposal of the numerous questions that arose, the Settlement officers themselves, as in the Panjáb, were vested with the powers of Civil Courts, and enabled to settle the often troublesome litigation that was inevitable.

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[1] If a village was not under a taluqa, it required great stability to resist enemies, and also the oppression of the State officers. When the Nazims had their own way, their oppression was terrible, as Sir W. Sleeman's narrative (*Journey through Oudh*, vol. i) shows. In those peaceful days it is almost strange to hear that the revenue of the martial Chhatrí villages was often not collected without a fight, and apparently a regular siege. Dr. Butler, reporting on the condition of Southern Oudh in 1838–39, speaks of the Chakladár's cannonading the villages as an every-day occurrence. When Sa'adat 'Ali (one of the good Nawábs) really controlled his 'Chakladárs,' it is said that during his reign a single *cannon-shot* could not be fired by a Chakladár in attempting to realize the revenue, without being followed by an immediate inquiry (!) (Sykes, p. 5, quoting Elliot's *Chronicles of Unao*, p. 131.)

Where these under-proprietary rights were strong, the holders got a 'sub-Settlement,' and a right of holding the *entire village* in perpetuity, at rates fixed at the Settlement, and holding good for the term of Settlement. The rest of the villagers were their tenants-at-will, a very few perhaps being occupancy-tenants in virtue of some former position.

Where the rights were not so extensive, there would be a recognition of an under-proprietary right to 'sír' lands (cultivated at favourable rates), and to groves, tanks, and houses, plots held by sale or in unredeemed mortgage, and so forth, but no sub-Settlement for *the whole estate.* The law is, in practice, unfavourable to the existence of a proprietary body between the Taluqdár and the village cultivators. The Sub-Settlement Act of 1886 demanded 'a strictness and comprehensiveness of proof for cases in which whole villages were claimed, which made the majority of such claims practically hopeless of success.' At the same time, the law provided for the retention of the sír land and other holdings of *plots of land* at low-rental rates.

This is practically true, although in theory[1] *any* subtenure might give rise to a right of sub-Settlement, with its attendant advantages, provided that the conditions of Act XXVI of 1866 were complied with. In practice, the sub-Settlement was only made with individuals or bodies who, but for the Taluqdár, would have been full owners of a whole village, or hamlet, or definite estate, forming a 'chak' or group of land; for it was such who were usually able to show their continuous holding by a contract or lease, 'holding pakká,' or pukhtadárí (as it is called in revenue language) under the Taluqdár. What the different forms of inferior right *now* are, we shall inquire presently.

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[1] See Sykes' *Compendium*, p. 158, and the various authorities quoted from the *Indian Appeals and Indian Law Reports.*

§ 5. *Illustrations of Tenure from the Districts.*

But it will first be desirable to make brief notes of the state of each of the twelve districts of Oudh, as regards the number of villages which have been included in taluqas or have remained independent; and to see what sort of villages they are.

The reader will be prepared to find that by far the greater number of villages, *not in taluqas*, are landlord villages—i. e. either zamíndárí or pattídárí, distinguished by their holding on *ancestral shares*; only a few are of other kinds. This is due to the fact that these landlord villages are (as already explained) the result of the disruption of petty kingdoms, or of grants made within kingdoms, or of settlements of conquering tribes, in groups which were not large enough, or had not the desire, to form a 'Ráj,' or more frequently were under a Ráj which broke up and disappeared, and the villages were strong enough to maintain independence.

Inside taluqas, it is much more difficult to say what was the state of villages, but probably landlord classes had grown up in many, and would have remained had they not again sunk under the Taluqdár's power.

In KHERI most of the villages were obliged to place themselves under the protection of Taluqdárs; hence villages, originally of Pásís, Ahírs, Kurmís, &c., became owned by Chhatrí landlords, or under Chhatrí Taluqdárs.

In BAHRAICH all the villages nearly are in taluqas[1]; and out of 1760 villages in taluqas, 1515 had become the property of the Taluqdár.

None of these taluqdárí villages have sub-Settlement rights. The 251 villages not in taluqas were held by single landlords; only twenty-four were owned by communities.

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[1] *Gazetteer*, vol. i. p. 176.

In GONDÁ, of 3536 villages, 2114 came into taluqas, and of these 362 estates had sub-Settlements. Of the 1422 villages outside taluqas, all but twenty-nine, were landlord (zamíndárí and pattídárí) villages. I have already given some details about this district, e.g. how the Máhádewá Bisens obtained the grant of 'zamíndárí' rights in all their villages. It is noted that the subordinate rights are more the result of *birt*, or grant, in this district, and it is contrasted with the southern districts, where 'village zamíndárs' *grew* up[1].

In SÍTAPUR, out of 2572 villages, only 937 are included in taluqas. Not quite two-thirds of the district, therefore, is independent of any Taluqdár. Of the remaining villages no less than 1226 are owned by zamíndárs of petty estates, 350 are pattídárí and 59 bhaiáchárá.

For BARÁ BÁNKI no particulars are given, but it appears that, with something over 2000 villages, about three-fifths are taluqdárí.

In FAIZÁBÁD Taluqdár villages preponderate. Out of 2383 villages in taluqas, 791 have sub-Settlement rights, and 69 are held in hereditary farm (which did not give the management right but only to receive the revenue, and, therefore, carries no sub-Settlement).

In HARDOI[2] it is noticed that Taluqdárs were found, who had become so by purchase, or by standing security for villages for the revenue and getting hold of them on their default, which, it is to be feared, was often purposely brought about. There are few real old 'feudal' Taluqdárs. There are 1569 villages not under taluqas; but out of these 823 are zamíndárí, 728 pattídárí, and only 18 bhaiáchárá villages. This at once indicates that though few chiefs or nobles acquired large demesnes, many acquired smaller estates, becoming landlords or zamíndárs of single villages. The causes of the paucity of 'pure' or Rájá-

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[1] See *Gazetteer*, vol. i. p. 510.

[2] *Gazetteer*, vol. ii. pp. 38-45.

Taluqdárs are described at p. 40 of the *Gazetteer* article on Hardoi.

This district, the geographical position of which, on the high road between Delhi and the kingdom of Jaunpur, probably had a considerable influence on its fortunes, affords a good illustration of the fact that the Rájá with a large, or comparatively large, territory, is not the only outcome of the tribal (or clan) conquests which are the origin of many North-Western and Oudh tenures. It occasionally happened that conquering Rájputs settled in groups without any Rájá or chief, and then merely formed equal groups of 'bhaiáchárá' villages; or at most a leading man here and there became 'zamíndár' of a village or two, and gave rise to the 'zamíndárí' tenure there, and his numerous descendants to the 'pattídárí' tenure after him. Or it may be that long after establishment, the necessity of defence caused the group of clansmen to elect a Rájá over them.

These clan-settlements, if I may so call them, often occurred *after* the great historical immigration of the Aryan tribes, with their quasi-feudal organization; and represent a secondary movement—a sort of overflow of some other, and perhaps distant, location. There is no place for some of the younger members of the great families, and then 'a single individual, or three brothers at most,' start off, settle in some convenient locality, 'and prosper: they commence by dividing the property equally among all the sons.' In that case they form bhaiáchárá communities. In other instances, adventurers have gone forth and succeeded in becoming the 'zamíndárs' of villages. 'If it happens that any call is made on the military prowess of the family now become a clan' [or perhaps always having been numerous enough to form a clan] . . . 'it is not unlikely that their natural leader, the head of the elder branch, may be either nominated Rájá by his clan or be granted the title by the supreme authority.'

LUCKNOW[1] being around the seat of government, there was less need of Taluqdárs, and more scope for courtiers and others becoming possessors of villages or small estates; or for villages being reserved for the king's privy purse, so that they became independent when the kingdom came to an end.

And the facts of tenure bear out this expectation. Out of 1493 villages in the district, only 374 are taluqa villages. The rest are 'zamíndárí,'—i.e. where some family has furnished a sole landlord or expanded into a proprietary community; while a considerable number (501 occupying 329,855 acres) are in the 'bhaiáchárá' form showing Settlements of small clans on the equality principle —where no overlord has arisen.

In UNÁO[2], out of 1194 villages, only 266¾ are taluqa villages, divided among 18 Taluqdárs, of whom 5 only are hereditary: 5 were auction-purchasers and 8 were of recent origin. Proprietary families had got hold of 561½ villages returned as held by single owners or joint families, and 344¾ were probably owned in the same way, only that as the shares were divided, the official classification separates them and calls them 'pattídárí.'

In RÁI BARELI we have the district where the once extensive settlement of the 'Báis' of the clan of Tilokchand still maintains its ground[3]. It is instructive to notice here how the establishment of a great Rájput clan, with its organization of chiefs, has affected the villages. In the first place, out of 1735 villages, no less than 1719 are now held by Tilokchandi Báis. Of the whole number, 1198 villages are formed into the estates of 100 chiefs who have become Taluqdárs. Of these, 11 are great estate-holders (350,000 acres among them). There remain 537 villages (covering 460 square miles) owned by groups of smaller proprietors, mostly Báls and Káhnpuriás.

In PARTÁBGARH[4] it is noted that 1722 villages are in taluqas, and 387 held by independent proprietors. Those that are in taluqas are mostly without strong sub-proprietary rights,—i.e. without a sub-Settlement. The independent villages are mostly held by proprietary families, only 115 being 'bhaiáchárá.'

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[1] *Gazetteer*, vol. ii. p. 341.

[2] *Ib.*, vol. iii. p. 53.

[3] *Ib.*, vol. iii. p. 207 et seq., and see vol. i. of the present work, Chap. IV. p. 133.

[4] *Gazetteer*, vol. iii. p. 624, &c.

In SULTÁNPUR[1] we also find a district where the taluqdárí villages preponderate: 1022½ are in taluqas, and 890½ are independent. In the taluqas the villages are mostly without sub-Settlements. Of the independent villages, as usual, by far the larger number are held by 'zamíndárs,' or are shared, while 182 are 'bhaiáchárá.'

SECTION IV.—SUB-PROPRIETARY TENURES.

§ 1. (i) *Those entitled to a sub-Settlement.*

The way in which the rights of the sub-proprietors or original holders under the Taluqdár, were determined and provided for at Settlement, according to rules promulgated in 1866 (made law by Act XXVI of 1866[2]), may now be stated.

As this has all been done long ago, it is now of no importance to the student to go into details as to the dates and periods of limitation which were fixed. I shall merely state in outline the principles followed.

The subordinate rights come under one or other of three categories:—

(1) Sub-proprietor of *an entire village* entitled to a sub-Settlement;

(2) Sub-proprietor of a holding, plot, or grove, not entitled to a sub-Settlement;

(3) Rights merely provided for under the head of tenant-right.

As to the rights of first order entitling to a sub-Settlement, the claimant was required to show, first, that he was really proprietor *over the whole of his claim*[1]; and, secondly, that his proprietary right was recognized 'pakká,' (or pukhtadárí) as it was called, by the continuous enjoyment of a *lease* given by the Taluqdár. What is meant by 'continuous' was defined with reference to certain fixed dates which it is not now necessary to go into. The lease must have been connected with, and given in consequence of, the proprietary or managing right, not as a 'farm' to a mere tax-gatherer to realize certain revenues.

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[1] *Gazetteer*, vol. iii. p. 435.

[2] Called the Oudh Sub-Settlement Act, 1866.

The sub-Settlement or pukhtádárí right arose[2]:—

(1) From former full proprietary right;
(2) Purchase of 'birt' over the village;
(3) The village being mortgaged and the mortgagee holding unredeemed.

The right to sub-Settlement might again be affected by the amount of profit which would remain to the claimant after paying the Taluqdár his dues. If by the terms of the contract, the sub-proprietor got so little that, after paying the Taluqdár, he had not more than 12 per cent. on the gross rental of the village, no sub-Settlement would be made, and the sub-proprietor would then remain only in the second order of right. If the profits originally did not come up to 12 per cent., the under-proprietor retained his sír land, and if the profits of this were not equal to 10 per cent. of the gross rental of the estate, more land was assigned to him as 'sír' so as to make up the profits to the minimum 10 per cent.

A sub-proprietor who was entitled to sub-Settlement, because his profits came up to a minimum of 12 per cent., would be entitled also to have the rent payable by him under his sub-Settlement fixed at such an amount as would bring his profit up to 25 per cent.; in short, *any sub-proprietor of a whole village entitled to a sub-Settlement at all, must get profits equal to 25 per cent. on the gross rental.*

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[1] This would not be vitiated by the arbitrary seizure and alienation of a part of the land in favour of some person whom the taluqdár desired to favour: the state of the case, as a whole, would be looked to. (*Digest*, V, § 12, &c.)

[2] See *Gazetteer*, vol. i. p. 439.

§ 2. *Sub-Proprietors*: (ii) *those not entitled to sub-Settlement.*

Next, there was the second order, sub-proprietors who had retained *no general* right *over the whole* of their original village or estate, having no lease which recognized such right. These would usually, however, have maintained their right to some plots of land, which would happen in several ways. It is here that the various grants and indulgences allowed by the Taluqdár or his predecessors, operated to give rise to a number of 'sub-tenures' as they are treated in the books. These 'sub-tenures' in fact describe nothing more or less than a number of forms in which, or circumstances under which, the Taluqdár sold, granted, or recognized, certain rights to plots of land or parts of villages, and which are now stereotyped as under-proprietary rights in the particular lands concerned.

§ 3. *Enumeration of sub-Tenures in Plots.*

As it is the practice in the text-books to enumerate and describe the different ways in which Taluqdárs (or their predecessors) granted rights in villages, as so many 'sub-tenures' under local vernacular names, it may be well if I follow the example and briefly describe and explain the terms used.

These terms do not really imply any complication; they merely indicate, by separate names, various kinds or degrees of right which it became customary to grant or sell. In other words, under these different 'sub-tenures' the landlord parted with certain individual sticks out of the bundle which together made up the totality of the enjoyment of full ownership. Such separated rights were in their nature proprietary, but, being always in subordination to the Taluqdár or overlord, are called 'sub-proprietary rights,' or 'sub-tenures.'

Such under-proprietary rights were:—

(1) *Dihdárí*, or '*Dídárí*.' This is mentioned in several

districts, and appears to indicate that where a village proprietor was obliged by circumstances to put his village into a taluqa voluntarily, or sometimes where his village was taken without his consent, either a fraction of the village, or a specific plot of land, was left to the proprietor as his own; and this land was rent- or revenue-free, the amount so deducted being thrown on to the other lands of the village[1]. A whole village might be held 'dihdárí,' I suppose, where more than one village had formed the estate lost, and one village was retained in this way. In such a case there would be a sub-Settlement with the holder.

(2) '*Sír.*' The commonest of all sub-proprietary holdings is the 'sír'—that personal and inherited holding which, under any form of common or shared village estate, each co-sharer has for his own special benefit. When the *quondam* owner or co-sharer loses all his other privileges, he manages to retain his own special holding, which he always cultivated himself, or by his own hired labour or personal tenantry, and he holds this at a favourable rate of rent. A person who did not claim to have been proprietor, or a member of a proprietary body, over the whole village, might yet have had a proprietary claim to a holding of his own; and this would also be 'sír' under the Taluqdár. Land might also be given or recognized as 'sír' though not originally a family holding[2]. When a man had, under Settlement arrangements, to have his profits made up to him to a certain percentage, it was done by assigning him so much more land as 'sír.' Under this head, 'nánkár' ought to be included, for it is really 'sír,' only called by the other name because allowed for the purpose of supporting the holder, who rendered some service

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[1] Faizábád *S. R.*, pp. 79 and 80; where the land was not entirely free, a low rate levied on it was called 'barbasti.' (Sykes, p. 160.)

[2] In some places the term 'sír' is applied to land allowed to younger members of a chief's family for their support: in this sense it is a synonym of 'jéwan birt'; and there were a number of 'hard cases' which came up at Settlement which were provided for by the sort of compromise of recognizing a certain 'sír' holding for the ill-used claimant.

in managing the village, or was entitled to consideration on other grounds.

'Sír' land is said in the *Bahraich Settlement Report* to be the land that each man had as *his own at the date when the village was incorporated into the taluqa.* Land afterwards added on might only be called 'sír'—or held at the low rate usually allowed, by special favour.

It was an object, of course, to encourage the old 'zamíndárs' to stay on, and not to abscond, or offer their village to a neighbouring Taluqdár; to effect this the Taluqdár readily granted the 'sír' to be held at a low rate; and thus the old landholders were reconciled to their new position out of attachment to the ancestral acres, especially when they had groves also.

(3) *Birt and Sankalp. Birt* was properly a grant (i. e. for appearance sake); but in later times (at any rate) it was always for a consideration. *Sankalp* is a religious grant, made for no consideration but the prayers and services of Brahmans, and is irrevocable and made with the form of giving a blade of sacred 'kúṣa' grass.[1] *Bishnprít* is another religious grant of this nature.

The grant (really sale) of the 'zamíndárí' right in a whole village (birt-zamíndárí) gave more or less of the Taluqdár's right in the village according to the terms of the deed, but always a subordinate right. Such grants have already been described (pp. 225, 226).

In the *Bahraich Settlement Report* it is noted that, in some parganas, such grants were made in order to enable a needy Taluqdár to realize at once—in advance as it were—an advantage from villages newly settled in the waste, which would otherwise be realized only in the course of years. The grantee would be entitled to tanks he dug and groves he planted, as well as to dues other than the ordinary revenue or grain-share, of which perhaps he would stipulate for the dah-haq, or 'one-tenth' share.

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[1] For the discussion as to whether the Ṣankalp could be resumed or reduced, see Sykes, p. 181.

The birtiyá did not, in virtue of this grant, become owner or manager of the village[1].

It did not follow that the donee succeeded in retaining the whole of the privileges after the grantor's death; and we hear of cases where a 'birt' of the same lands was formally granted to several different persons.

There are other 'birts' known as 'jéwan birt' (for the support of younger sons, &c.), 'ri'áyatí birt' (a grant made out of favour), 'jangal-taráshí birt' (grant to encourage the clearing of the jungle), and 'marwat birt' (presently described).

(4) *Bai'qita'át* and '*dár*.' These are only names indicating that particular plots (never whole villages) have been sold, and so that the purchaser is vaguely the 'holder' (dár) of his purchase.

(5) '*Dih*.' This is not to be confused with the 'Dih-dári' spoken of. For some reason or other—which I have not found explained—when an old village fell into ruin and the estate was afterwards reconstituted, it was likely that the new dwelling site did not occupy the whole area of the old one, or was built elsewhere; and the new founders got and cultivated the old site which was found lying waste but fertile, and held on to this under the above name, through subsequent losses and changes[2].

(6) '*Daswant*' and '*Chaháram*.' These words only indicate that a 'jangal-taráshi' or waste-clearing grant carried with it a stipulation that the grantee should retain 'a tenth' or 'fourth' of the produce: and resulted in his clinging to a similar fraction of the land afterwards.

(7) *Púrwá basná*[3]. Grant to encourage a man to found (basná) a 'púrwá'—outlying hamlet or extension of a

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[1] A grant would run thus: 'I have given to Tulsi Ram, Brahman, a grant (birt). He will get continuously village Ganeshpur, with tanks, groves, dih (certain lands explained in No. 5), and *parjá anjuri*, *biswa and bondha* (certain house and other fees). He is to get zamíndári allowances (i. e. special allowances of nánkár, &c., made ordinarily to the managers whether the village was held in farm or direct). He is to take possession in confidence. R. 701 have been taken.'

[2] Bahraich *S. R.*, pp. 97-8.

[3] See Section 11, Act XXVI of 1866.

village. It really only gave the grantee a lease so long as he could hold it: during that time, he got the dues allowed to the 'zamíndár' or manager. And if the village was taken under direct management, the grantee fell back on the area allotted as his sír and nánkár land,—as appears from the specimen grant given by Mr. Sykes. 'Do you,' it runs, 'found a katrá (street or hamlet) after the name of Bhagwán-bakhsh, in village Deopur, and populate it; build your own house therein, and be assured that I have written off the "zamíndárí" of the same to you. . . . So long as you wish you may hold *pakká* (i.e. have the revenue-lease of the place), and if it is made *kachchá* (i.e. taken under direct management) you may enjoy ten bíghás *nánkár* and ten bíghás *sír*, assessed at one rupee eight annas; and in addition take ten bíghás of grazing-land.' 'Further, three bíghás are given you for a grove, *that you may rest quiet in your mind*[1].'

(8) *Marwat* (*maroti*, or *marwat-birt*). This was one of the grants which doubtless helped to attach the retainers to the old Rájá's house. If a man went out to fight his master's battles, he knew that his family would be provided for in the case of his death[2]; or such a grant was made as 'blood-money'—compensation for the death of some one for which the grantee assumed a certain responsibility.

(9) '*Biswi.*' This right is said to be almost confined to Faizábád and Sultánpur; it represents a claim which arose out of a mortgage where a proprietor had borrowed money of a cultivator on the security of his holding. He thus, in fact, forestalled his rental receipts, and the cultivator held rent-free (when the interest equalled the rent), but more often paid a small sum, called 'parmsána,' representing the difference between interest due to him and the full rent of the land[3]. Under old custom the mortgage was always

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[1] Sykes, p. 171. Note this in connection with what is said presently about *groves* in Oudh.

[2] See the Sultanpur *S. R.*, pp. 83-84; and Sleeman's *Journey*, vol. i. p. 254. As to the question whether the taluqdár can *resume* a marwat grant, see *Law Reports*, *XII*, *Indian Appeals*, p. 52; and Sykes, p. 191.

[3] The student may compare this practice with the mortgages by tenants in Malabar (vol. iii. Madras). For the terms of a Biswi, see Sykes, p. 194.

redeemable, but under our law of limitation it ceased to be so; and when the mortgage was foreclosed or became irredeemable, the sub-tenure, called 'biswí,' was allowed to the ex-proprietor, by way of compromise for the loss of the right of redemption.

(10) '*Rakhauná*.' This is sometimes spoken of as a sub-tenure: it means a claim to a bit of land, on the ground that it was an exclusive grant out of the waste for grazing purposes; it might not be broken up, otherwise it became liable to full rent. It would seem that this was rather a grant of a right of sole user than a sub-proprietary grant[1].

> 'It has not unfrequently happened that claims have been preferred by members of the old cultivating community to certain plots of meadow land as pasture ground[2]. The right is never claimed as a general one over all the waste land in the village, but a particular area or portion of such waste is always named. The meaning of the word, which is 'land set apart,' would support the idea that separate portions of the waste were thus made over to, or rather retained by, the ex-proprietor when his property was merged in the lordship.
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> 'The holder of this *rakhauná* would have the exclusive right to graze his cattle thereon, to cut thatching grass, &c., but it is uncertain whether he would be allowed to break up the land for tillage or not. My inquiries lead me to believe that this was not permitted, and that the holder of *rakhauná* so breaking it up would be liable to pay full rent on it.'

(11) '*Bág͟hát*' (*groves and orchards*). Last, but not least, must be mentioned the right, which everyone has who has planted a *grove* (bág͟h).

The right to plant this is in itself a distinctive feature of proprietary right. A man might have neither 'sír' land nor a 'birt,' and yet have his right in a grove; for he might have planted it *without anyone's permission*, and that shows that he must at one time have been owner, at least of the land on which the grove stands. Permission was also often given to plant a grove, and the planter became owner, at all events as long as the grove was maintained.

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[1] See Bahraich *S. R.*, p. 102.

[2] *Gazetteer* (vol. i. p. 186).

The trees may be by custom owned separately from the land; so that if a *tenant* gets permission (as he must in all cases) to plant a grove, he may own the trees, but the land would revert when the trees had died or were cut[1].

The following extract is taken from the *Oudh Gazetteer*[2]:—

> 'There is no village, and hardly any responsible family, which is without its plantation; and even members of the lower castes will think no effort thrown away to acquire a small patch of land on which to plant a few trees which shall keep alive their memory or that of the dearest relations to whose names they dedicate them. A cultivator who would quit his house and his fields with hardly a regret, to commence life under better circumstances elsewhere, can hardly ever overcome the passionate affection which attaches him to his grove; and the landlord who gives up a small plot of barren land for this purpose to an industrious family, is more than repaid by the hold he thereby gains over his tenant. As much as a thousand square miles is covered with those plantations, usually one or two acres each, but sometimes, when the property of a wealthy landowner, occupying a much larger area.'

§ 4. *These Rights all recorded at Settlement.*

All these sub-proprietary rights give a profit equal to not more than 10 per cent. of the gross rental of the estate. All such rights in sír and nánkár lands, birts, mu'áfís, and other grants, and rights in groves—are only secured by record at Settlement; no sub-Settlement is made with the holders of them.

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[1] For some curious particulars about groves and certain rights in sharing the produce of Mohwá trees, see (under Partábgarh district) *Gazetteer*, vol. iii. p. 93.

[2] Introduction, vol. i. p. 6.

§ 5. *Profits of the Taluqdár.*

It will be now readily understood that the profits of the Taluqdár greatly depend on the nature and extent of the inferior proprietary rights which exist in his estate. If he were free of all such claims, his assumed rental-profits would at least equal the Government revenue (on the 50 per cent. principle). But in fact the existence of such rights leaves him less. He can only have the rental after paying the Government revenue and also allowing for the rights of other parties. For instance, in an estate where the village owners are entitled to a sub-Settlement; here, as no person with a sub-Settlement can get less than 25 per cent. of the gross rental, there would only remain about 25 per cent. for the Taluqdár. If the sub-proprietors (with sub-Settlements) were entitled to considerably more than 25 per cent., the Taluqdár might have merely a nominal profit, were it not for the rule that in no case can the amount payable by the under-proprietor be less than the amount of the Government revised demand, with the addition of 10 per cent.—that is, the Taluqdár's profit on the estate must be at least 10 per cent. on the Government demand[1] (because the rest—the Government demand which he receives from the under-proprietor—he has to pass on to the treasury).

When speaking above of the different extent of the estates which different Taluqdárs had acquired, I alluded only to the circumstances which made their holding consist of a greater or less number of villages or extent of land. But now we see further, that even in two estates nearly equal in extent, the amount of the Taluqdár's *pecuniary interest* may be very different. The more the Taluqdár had obliterated the old proprietary rights in the village, the more landholders he reduced to the status of tenants, the larger his profits were. But originally, in Oudh, the Taluqdár paid much less to the State than the Bengal Zamíndár did; for in Oudh, when he got in his rents from the villages, he often only paid in one-third, and, in some cases, not one-fifth or one-tenth of the whole to the State treasury; whereas the amount of the Bengal Zamíndár's payment to the State originally represented nine-tenths of the rental of his villages. The Zamíndár, however, made *his* profit by increasing the cultivation of waste (often a very large area) not included in the assessed area, and by levying cesses [1], which, of course, did not appear in the accounts as part of his collections.

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[1] See Act XXVI of 1886, Schedule, Rule VII, clause 3.

Now, the Taluqdárs, being recognized as proprietors of the estates, and not State grantees or contractors for the revenue, the Government never (save as a favour in exceptional cases) takes less than the 50 per cent. of the 'net assets,' which it levies in all North Indian provinces on all proprietors. Hence in theory the Taluqdárs get relatively less than they did formerly in the way of actual percentage of the revenue. On the other hand, owing to the increased value of the land, and the consequent great increase in the absolute amount of the rental, their profits are often (absolutely) much larger.

SECTION V.—TENANTS.

§ 1. *Rights below the grade of Sub-Proprietary.*

When the cultivator of land is not in proprietary possession under the Taluqdár, and is not the holder of any 'sir,' or 'birt,' or other of the sub-proprietary holdings, he is a *tenant*.

There was an immense correspondence and inquiry about the possible rights of tenants in Oudh; the point being whether, apart from the various rights which were protected as sub-tenures, there was anything which could entitle a tenant, as such, to have rights of occupancy, by length of possession or otherwise.

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[1] See Financial Commissioner Panjab's letter to Chief Commissioner, Oudh, 19th June, 1865, alluding to Sleeman, vol. ii. p. 209.

It is now of no importance to enter into the details of the correspondence; we are only concerned with the outcome of it. That was the first Oudh Rent Act, XIX of 1868. After some years of practical experience, this law was modified and is now replaced by the present Rent Act (No. XXII of 1886).

The Settlement of Oudh, it must be remembered, did not sweep into one common grade of tenant, the bulk of the soil-holders under the superior landlord, as, speaking generally, the Bengal law of 1793 did. It minutely classified and determined who were proprietors under the Taluqdár, and who were partly so, and to what extent. Hence the only further protection that was thought necessary was to make one class of tenant-right, which is, in fact, only a very weak form of sub-proprietary right. If a tenant could show that he was *once* proprietor—i.e. within thirty years before February 13th, 1856 (date of annexation), he might be entitled to the occupancy-right as tenant of his holding, with a heritable but not transferable tenure. He could claim a written lease or 'pattá,' specifying his terms, and his rent could only be enhanced on certain conditions.

The Oudh law recognizes no arbitrary or legal right of occupancy by mere lapse of twelve years or any other period; the Act X of 1859 has never been in force. Such a rule of law is only needed where there has been a grant of one class of rights without definition of the others. Then the only remedy is—when the lapse of time and the circumstances of the country render discrimination difficult, if not impossible—to grant a general right of tenant-occupancy, based on a continuous holding for a fixed number of years, as a practically just, if arbitrary, method of protection. Hence, in Oudh, 'occupancy-tenants,' as representing the residuary class of persons, who have *some* right to consideration, and yet not definite enough to be sub-proprietors, &c., are a small class. Under the Act of 1868 they were holding only about 1 per cent. of the whole cultivated area: 78 per cent. was held by tenants-at-will.

Thus, let me repeat, the village rights may now appear in a descending gradation of strength. In some villages the landholders may be under-proprietors, entitled to a sub-Settlement; in others, they may have preserved partial rights, which make them only sub-proprietors of their sír, of groves, of plots held in mortgage unredeemed, of revenue-free holdings (mu'áfí), and such like, without any sub-Settlement; in others, they may have sunk to the position of tenants with a right of occupancy; in others, the bulk of the cultivators may be tenants-at-will.

I do not mean to imply that the tenants-at-will are always, or nearly always, people who were ages ago proprietors. In every village there are bodies of tenantry who were never anything else. Land *was once* as abundant as it was fertile, and good cultivating classes were attracted to it as tenants. Such are the large class of Kurmís and Muráos, who form a considerable part of the tenantry, and number about a million of souls. 'They are the backbone of the wealth of the country, and, though they will pay very high rents, the value in which they are held will deter a landlord from driving them off his estate by excessive extortion.' A large number of the lower tenantry and village servants are probably mixed castes of the original Dravidian and conquering Aryan inhabitants.

§ 2. *Serfdom.*

Under the head of 'Tenants,' we have to notice that in Bahraich and other districts east of Oudh, which had been the seat of the kingdoms of the Bhárs before the Aryan races conquered and occupied them, a system of serfdom known as 'sáwak' was in force. The accounts do not show that this was an enforced slavery of aboriginal or inferior races; rather it appears to have arisen from extreme poverty, certain of the lower castes selling themselves for a cash-advance[1]. In GONDÁ, the same system is mentioned, and with this addition, that a sáwak could get rid of a bad master by re-selling himself.

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[1] *Gazetteer*, vol. i. p. 145.

The 'sáwak' system[1] (in BAHRAICH *saunk*) was in full force, as indeed everywhere east of the Ghágrá. Under it a man of any of the four castes—*Lodh, Chamár, Korí, Kurmí*—receives an advance from a farmer, and becomes his bond-serf for life, or till he pays off the advance, which, it must be noted, does not bear interest. 'The ordinary sum so given varies from R. 30 to R. 100, and for this a man binds himself and his children down to the remotest generation. It is quite common to meet men whose fathers entered into these obligations, and who still labour in their discharge, although well aware that they can discard them and be free to sell their labour in the open market whenever they choose.' 'Such men receive nominally one-sixth of the crop, whatever it be, on which they have laboured as ploughmen and reapers. The general division, though, is slightly different. The unit of measurement and subdivision is ten *pánséri*, or fifty local seers[2]: from this is taken one and a half *pánséris* (seven and a half seers) for the ploughman, and half a *pánséri* (two and a half seers) for the ploughman's wife: but this last payment is conditional on her performing the two duties of grinding grain for the master's family and making the cow-dung cakes which are used as fuel. The farmer is not bound to concede these privileges nor the labourer to undertake them.'

The writer goes on to explain that this system cannot, of course, be enforced under our law; for, if the money obligation were enforced, the reciprocal right of the labourer, to be maintained in the case of failure of crop, would have also to be provided for. It survives by the consent of the parties or the force of custom.

'A *sáwak* is attached to every plough. Only one plough is allowed on the average for about seven acres and a half, and supplementary spade-husbandry is largely used so as fully to employ the *sáwak's* time. An average crop from this will be about 7000lb.: at 900lb. to the acre, the *sáwak's* share, including his wife's, will be 1400lb., half of it in superior grain, which he can exchange for 1000lb. of inferior but wholesome grain. His whole earnings will then be 1700lb. of grain, from which a man with a wife and two children cannot properly be sustained. . . .'

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[1] *Gazetteer*, vol. i. p. 145.

[2] The local seer averages about half a standard seer. So that the *pánséri* is from 2 to 2½ standard seers.

'At present the only motive for entering into the contract is want of food, and that this is an increasing motive is shown by the increasing numbers of *sáwaks*. Every second man met with in the fertile plains of Hisámpur is a *sáwak*, and it seems strange to an Englishman to listen to the proprietor pointing to them as they stand behind or drive the four-footed cattle at the ploughs. He descants upon the sums he paid for them:—fifty-one rupees for that one, sixty for his neighbour, because the latter had a large family which went with the lot.'

§ 3. *The Oudh Rent Act.*

The first Rent Act, XIX of 1868, has, as I have said, been replaced by Act XXII of 1886[1]. In the *Oudh Manual* (Revenue Circulars), Part II, Circular 33 (Vol. II), will be found a statement of the changes introduced.

The old law, as I have already stated, acknowledged no occupancy-tenants, except the small class of ex-proprietary-tenants—a class, in fact, whose rights were too weak to be called 'sub-proprietary' at all, and were therefore not protected by the Act XXVI of 1866.

It was long considered whether this wholesale abandonment of ordinary tenants—even though by their caste and history it was clear they were voluntary or contract settlers on the land, with an eye to making their livelihood—was altogether desirable.

§ 4. *The New Seven Years' Rule.*

The new Act has effected a sort of compromise. It has not created an artificial occupancy-title, but it has provided a general protection to the ordinary tenant of a somewhat novel character. Every non-occupancy-tenant (with the exceptions, to be noted) admitted *before* the passing of the See sec. 36. Act, has a statutory right to remain on the holding, and with the same rent, as he was paying on the 1st of January, 1887, for *seven* years, from the date of the last change in his rent, or the last change in the area of his holding; or, if neither has happened, from the date of admission to his holding. Thus, suppose a tenant took a holding in the beginning of the year 1886 (the Fasli year 1293), his lease would have five years to run after the expiry of 1294, the year in which the Act came into force. Any tenant admitted *after* the passing of the Act, will also have seven years from that date, or seven years from the date of any change in the holding or rent.

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[1] It came into force on the 1st January, 1887.

This privilege does not apply—

(1) To sub-tenants (shikmí), i. e. tenants of a tenant;

(2) To tenants on the proprietor's own special holding, or 'sír,' as defined in Section 67[1].

Act XXII of 1886, Sec. 4 (3-4).

(3) It may be barred on *waste* given to the tenant to reclaim, or reclaimed by the landlord, and given over on a contract. Such land has a period of grace (fourteen years) before it comes under ordinary conditions.

See Act XXII of 1886, sec. 157.

(4) It does not apply to estates which are separated as alluvial, or liable to change by river-action, nor to waste-land grants. There are also some special territories (Schedule D), which are exempted from it[2].

The tenant must not, of course, get into arrears with his rent; for an unsatisfied decree for arrears will deprive him Sec. 61. of his privilege. So he will lose it if he makes an improper use of the land, sublets the whole of it, or wrongfully diminishes the cultivation, so that he cannot pay his rent in kind (where the rent is so payable). Sec. 62.

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[1] Similar protection to the landowner's home farm will be found in nearly all the Rent Acts. In these landlord estates of more or less artificial growth the 'sir' is that which approaches most nearly to being *really* private property; the rest is in most cases more or less a matter of legal recognition or conferment by State policy, and therefore in that case, the State has every right to *divide its benefits* between parties interested in different degrees; hence the 'sir' is exempted from burdens the rest is not.

[2] See note, p. 254.

§ 5. *Enhancement for the same Tenant after the Statutory Period.*

On the expiry of the privileged term, *enhancement* of rent can be demanded; but only on agreement, or by order of Court, to an extent not exceeding 6¼ per cent. on the previous annual rent; and, if the rent is in kind, it cannot be enhanced except in accordance 'with an established custom' of the *pargana*.

These limits do not apply where the landlord has made, Sec. 50. or paid compensation for, an improvement which increases the productive power of the land. The case put in Section 49 also is hardly an exception.

If a tenant dies during his term, his heir (as defined in Section 48) can continue the holding and its privileges for the term, but cannot claim a renewal on its expiry.

As to the enhancement on a new tenant taking up a holding, the period of which has determined, Section 47 limits the amount in a similar way, subject to certain details, for which the Act must be consulted.

In order to get the enhancement spoken of above, the landlord may have a notice issued before the 15th of February; and, unless the tenant can contest it on the grounds specified in Section 43, he must accept it or go. Having accepted it, he is again secure for a term of seven years more.

§ 6. *Option of Landlord.*

The landlord is, however, entitled, at the close of each statutory term (not to enhance, but) to regain possession of his land by a notice, to be served before 15th Sec. 54. November[1].

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[1] This date is fixed, as it allows time to settle any questions that may come before the Court before the season arrives at which only tenant can be evicted.

§ 7. *Commutation of Grain-Rents.*

Commutation of *grain*-rents to *cash* is left to be matter entirely of agreement between the parties.

§ 8. *Occupancy-Right.*

Sec. 5. The *occupancy-tenancy* remains as it was before—that is, it is allowed to any person who has 'lost all proprietary-right,' but has himself, or his predecessor in the inheritance has, at some former time—within thirty years of annexation (13th February, 1856)—been proprietor; and his right extends to land he was holding on the 24th August, 1866[1]. A person cannot, however, be occupancy-tenant in any village estate in which he also holds any sub-proprietary rights (such as a grove, a special holding, 'dihdári,' or any of the rights before described). His right is held to be satisfied by his recognition to that extent; and no further general concession is needed. The occupancy-right is heritable, but not transferable. A landlord may *confer*, by registered agreement, a right of occupancy irrespective of these terms.

Ejectment can only be had on decree, and that decree can only be made on the ground of *a decree for arrears of rent* which has not been paid up for fifteen days after making it. Sec. 52, cl. 1.

Any *tenant* who wishes to make an 'improvement' (as defined in Section 26), must ask the landlord's leave; but, Sec. 24. if the landlord refuses, power is given to apply to the Deputy Commissioner for permission. The *landlord* can make an improvement without the consent of a tenant-at-will, but not without the consent of an occupancy-tenant.

Compensation for improvements[2] is of course a condition precedent to eviction—on the terms and with the limitations for which, the Act itself may be consulted. Secs. 22-29.

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[1] Of course a person who had come into occupation between February 1856 and August 1866, would not have the right.

[2] Section 25 provides for *registering* improvements and *their cost*; this ought to be useful in settling disputes that afterwards arise as to the compensation due, which are said to have been very frequent under the law of 1868.

Tenants' rent is recoverable by *distraint* under carefully Sec. 72. restricted conditions and procedure, for which Chapter VII of the Act must be read. *Under-proprietor's* rent (the definition of rent includes both) is recoverable by suit in the Revenue Court[1].

There are important provisions regarding remission of rent made with the sanction of the Deputy Commissioner at time of passing a decree for arrears in section 19. This protects the tenant who is suffering from drought, hail, or other calamity; and there may be a corresponding *recommendation* as to the landlord's *revenue* (which, of course, under the circumstances the authorities would always attend to). No court can *order* the revenue to be reduced; that is a matter for the Government only. An *occupancy*-tenant cannot, however, claim a remission for calamity *unless* the landlord has had the benefit of a remission in his revenue.

These provisions differ somewhat from those of the North-Western Provinces Act, where any class of tenant can *claim* a corresponding remission (or suspension) of his rent only if revenue is actually remitted or suspended. The Act XII of 1881, Sec. 23. circumstances of the estates in the two provinces are, however, different: the Taluqdárs' Settlements and the sub-Settlements make the matter less easy to deal with. The section will apply only in cases of genuine and unusual loss or calamity, not, e.g. merely a loss on one harvest which is recouped by the abundance of the following one, but something that really makes the tenant *unable to pay*.

It should here be mentioned that landlords often employ a contractor or *thíkadár* to collect their rents, and as he has some of the privileges of a tenant, though not a tenant in name, the Act expressly extends certain sections to such a person. But this is a detail which the general student need not go into.

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[1] Rules on this subject (under sec. 158 of the Revenue Act) have been made. See *Oudh Rev. Manual* (Circulars) Part II. No. 10, 11.

§ 9. *Protection of Tenants against contracting themselves out of their privileges.*

A very important subject remains to be noted, as regards the general subject of 'tenant-protection.' In a country where the tenantry are extremely ignorant and often weak, they are induced to put their names to agreements which either they do not understand at all, or the real effect of which in operation their intelligence fails to take in. I shall quote § 16 of the *Circular*:—

> 'Section 4 is perhaps the most important of all the sections in the Act, outside the two Chapters IV and V that describe the conditions of the new statutory tenure' [i.e. the seven years' protection above described]. 'It provides that *no contract before or after the Act* shall deprive a *tenant* of that protection against enhancement and ejectment which it is the special object of the new law to give.
>
> 'It does not prohibit, however, the execution of a contract which shall give a tenant a longer occupancy than the statutory period of seven years: and in section 69 will be found the provisions which govern a tenancy constituted under this exception for a period of eight years or longer. But all agreements for any shorter term are barred, and no contract can defeat the statutory limit of enhancement. The Government has been unwilling to interfere more than was absolutely necessary with existing contracts, and although no *future contract* can alienate the right of a tenant in the *construction of improvements* and his title to *compensation*, no *existing* 'pattás' (leases) are affected which refuse permission to make improvements or admit the tenant on the condition that he will claim no compensation.'

It will be understood that the rule about leases to reclaim waste, holds good; for such land is exempt from the operation of these various terms, so to speak, till fourteen years have passed[1].

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[1] In such lands it is the very general custom to arrange progressive rents—none the first year, very little the third, or so on, till a moderate rent is reached after some years. This would not fit in with the provisions enacted for lands in regular cultivation.

As to the ejectment of ordinary tenants [i. e. not occupancy-tenants or those holding on special agreement (dating before the Act) or a decree of Court], they can be ejected after notice, on application or by suit as provided in Chapter V. The Chapter V explains itself. Tenants on the long leases mentioned in section 69 are on the same footing as regards ejectment by application to the Deputy Commissioner under section 61, as statutory tenants. By section 65, if the tenant has established a claim to compensation for improvements, a decree for eviction will be contingent on payment of the money found due.

There are, of course, many matters of detail in this Act which I have not touched on,—for instance, the grant of a *memorandum of terms* (pattá) to the tenant if he wants it (in connection with which section 70 is important), the giving *receipts* for rent, and so forth.

The concluding Chapters, VIII–XI, deal with the jurisdiction of the Revenue Courts, and with procedure and supplemental matters.

PART II.—THE LAND-REVENUE SETTLEMENT.

SECTION I.—THE PROCEDURE OF SETTLEMENT.

§ 1. *Introductory.*

The Regular Settlements have been all completed. The first began in October, 1860, and the last (Faizábád) was completed in September 1878.

They are for thirty years from the date of the declaration of the assessment[1].

The first to expire is that part of Unáo and Partábgarh in 1893, and the last will be one pargana in Gondá (1906)[2].

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[1] Section 44, Act XVII of 1876, provides that the Governor-General may fix the period with reference to the agricultural year.

[2] Stack's *Memorandum on Revenue Settlements* (1880), p. 151.

As all the troublesome part of the work—the survey, the determination of all claims to rights, and their accurate record—has been done once for all, when the Settlements fall in nothing will remain (provided the records are accurately maintained and all transfers duly noted) but to revise the assessments on the general principles which I have elsewhere described.

It is, therefore, only necessary to give a very general account of the procedure at Settlement, the authority for which (at the time of the commencement of the work) was, chiefly the Circular Orders of 1861; these having been approved by the Governor-General in Council, had the force of law under the Indian Councils Act[1]. The powers of officers and other necessary provisions were afterwards formulated in the Oudh Revenue Act (XVII of 1876) (as amended by XIV of 1878 with reference to certain powers of the Chief Commissioner).

§ 2. *Settlement Law.*

The provisions of the Oudh Act, as to commencing a Settlement by notification in the *Gazette*, and the district continuing to be under Settlement till another notification declares its completion; regarding the power to undertake all, or such parts of a Settlement as are requisite; of providing by rule what records are to be prepared; the presumption that entries in such records are true till the contrary is proved; the appointment and powers of 'Settlement Officers' and 'Assistant Settlement Officers'; are all very much the same as in the North-Western Provinces.

Act XVII of 1876, secs. 14-20.

Sections 20, &c., provide the feature which is special to Oudh, as compared with the North-Western Provinces, namely, the investing of the Settlement Officers with Civil Court powers. This provision was necessary, in order that they should be able not only to decide boundary questions and determine rights on the sole basis of *possession*, but also go into the merits of all the intricate points of right that arose, and decide them subject to the usual course of appeal, but with all the advantages of special knowledge, and, above all, being on the spot, which no Court but that of a Settlement Officer, could possess.

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[1] See vol. i. chap. III. p. 89.

§ 3. *Survey.*

The *Survey* does not call for any special remark. It was done by the older method of Revenue Survey, the interior field measurements and soil classification being made by 'amíns.' Alluvial lands, or lands liable to river action, are an important class in Oudh, and they were grouped into separate 'chaks' as described under the North-Western Provinces survey. The principle was always explained in the revenue engagement signed by the proprietors.

Digest IV sec. 30.

§ 4. *Demarcation in Oudh.*

It may be noted, however, that the intermingling of estates was in Oudh, so commonly found, that special demarcation and boundary proceedings and records were necessary. In fact, the Settlement Circulars treated 'demarcation' as a distinct branch of work. There was also a special staff employed at the Settlements for it. The work was done by amíns and munsarims, supervised by a 'sadr munsarim,' who remained with the demarcation officer[1]. As the Revenue Survey only dealt with exterior boundaries of villages, only these were shown in their maps, and supplemental maps of interior divisions had to be made for the use of the Settlement Officer, and for the native staff who made the khasra or 'field-to-field' survey.

The cause of the interlacing of estates has already been noticed (pp. 30, 135). When a number of villages belonged to certain joint families or to groups of landholders, and came under division, the plan was for each branch to get, not an entire village, or the whole of his share in one village, but a certain slice of each village in the joint estate; and exactly the same thing would be done in dividing the lands inside a village; the object in every case being to equalize the holdings or shares, by letting each consist partly of bad and good soil, so that all of one class should not go to one family and all of another to another. When, therefore, a separate Settlement had to be made for the several estates divided off, the lands which had to be assessed together as one *mahál*, lay some in one village, some in another. When the location of lands in an estate is thus scattered, it is said to be 'khetbat' (properly khetbáñt). When the division is into compact blocks, it is said to be 'pattí-bat[1].' When the lands are khetbat, there may be an estate (*a*) with some of its lands in each of several villages; (*b*) consisting of one or more villages as a whole, but some lands of another estate included in the villages; (*c*) consisting of one or more entire villages, but with some outlying lands in other villages.

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[1] Erskine's *Digest*, Section II, §§ 20 22.

Such internal divisions are very important, because the revenue is not, under the system we are studying, assessed on each field separately, or on a group of fields, merely because they lie close together; but on a *mahál* or estate owned on the same title, by the same individual or body. The internal divisions of villages were, therefore, not only mapped out, but were demarcated by pillars of a particular form to distinguish them from the village-boundary pillars. When a tract was demarcated, the thákbast maps were made over to the surveyor and the 'misls' (files of proceedings) relating to the boundaries made up.

The boundaries of waste lands attached to, or separated from, villages, were indicated by a continuous ridge ('meṇd').

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[1] The principle was adopted both in *ancestral* and in *bhaiáchárá* estates: it is also known in the Panjáb, where it is spoken of as the qita'-bat and khet-bat distribution respectively.

§ 5. *Inclusion of the Waste.*

And while on the subject of boundaries, it will be convenient to notice on what principle *waste* land was allowed to the *village* or to the *taluqa* estate.

'Waste lands[1] have been declared generally to be the property of the State: but it has been ruled that small tracts of waste that supply fuel and pasturage to the neighbouring villages, or are in the course of being cultivated by neighbouring villages, are to be included in the village boundaries.'

The object here, as elsewhere, was to give, in addition to the culturable land, room for extension of tillage, and to provide for pasturage: and the rule was, when possible, to allow the village an extent of waste equal to the area already cultivated. If, after making this arrangement, the surplus would not exceed 500 acres, it was not demarcated, but re-distributed and included in the villages. The waste in excess of this would usually be free of all rights and available for any Government purpose.

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[1] Quoted from the *Digest*, section II, §§ 63-70.

This was quite in accordance with ancient principle. When the districts were the kingdoms of ancient Rájás, no doubt villages had a certain user of the waste, but the soil belonged to the Rájá, and the Lucknow Government claimed the same right. As to the disposal of the surplus waste; it was done under rules. For example, in the Gondá district (*Gazetteer*, vol. i. p. 536). When we took over the administration of the Gondá district, we found very extensive forests in which the neighbouring landowners exercised only vague and indefinite rights of common. The title of Government to large tracts of waste was asserted, and the forest divided into parcels which were then granted out. The first plan was to take an entrance fee and remit revenue for twenty years, and to stipulate that a certain portion of the grant should be cultivated on pain of losing part: but afterwards other rules were made, putting up the land for sale in 'fee simple'—that is, in full title with no revenue to pay. Thirty-one grants covering 43,275 acres were made on the first principle, and twenty-two grants of 35,403 acres on the other, the average buying price being R. 14-1-6 per acre. In other places it is out of the surplus waste that the Government forests were constituted. As regards the *ancient* rights in the waste, they were very indefinite no doubt. In villages *granted*, the grantees would consider themselves entitled to everything within the grant. But in the ordinary state of things, where there were groups of cultivators each claiming his own holding, the people only made use of the waste, but could not break it up without the direction of the headman. There are some good remarks on the subject in the article 'Utraula' (*Gazetteer*, vol. iii. pp. 583-4). Mr. Benett says, after allowing that the village cultivators had these rights, 'The waste (itself) belongs entirely or partially to the lord's domain.' 'Thus we find the villagers used to take as much wood, fish, or mohwá fruit as they wanted for their own consumption from the ponds and jungles within the village boundaries, while they thatched their houses and fed their cattle free of charge from the grass lands. At the same time any such produce as could be carried and sold beyond the limits of the village belonged to the Rájá, and the proceeds formed one of the chief sources of the revenue—the sáir. It was in accordance with this principle that when a cultivator moved to another village, he ceased to have any rights in the house he left. The thatch, beams, and walls became the absolute property of the Rájá.'

Whenever a State forest is demarcated, a belt of waste land has to be left between the village boundary and the forest, so that the village may have no excuse for cattle-trespass within the actual forest limits. As this arrangement of waste was provided at the first Settlements and acted on then, there was no occasion for any provision of law in the Revenue Act.

In cases where Government waste adjoined private estates, the Government paid half the cost of the ordinary boundary-marks and one-third of triple-junction pillars.

SECTION II.—THE ASSESSMENT.

§ 1. *Assessments compared with the North-Western Provinces.*

The general principles of soil classification, resulting from a careful inspection of villages, map in hand, and indeed most other principles described in the sections on the North-Western Provinces, apply equally to Oudh. But there was a material difference in the *method of assessment.* In the first place the plan described as that of some of the earlier North-Western Provinces Settlements, viz. of taking lump sums for the pargana and distributing them over the estates, was *never* followed; and in general, I may state that the main difference consisted in paying much less regard to average rates for the same class of soil throughout an assessment circle or a pargana, and in *dealing with each village separately.*

A village rent-roll was prepared, and this was carefully corrected so as to attach a rental value to 'sír' lands cultivated by the proprietors or sub-proprietors themselves, to rent-free holdings, and to lands held at privileged rents. The village rent-rates were obtained by an elaborate analysis of rents paid by the several classes of cultivators on several classes of soil, as in the homestead, middle zone, and the several kinds of soil in the outlying zone.

An appraisement was also made to give a fair rent-rate for culturable land not yet brought under the plough [1].

Fruit and other groves were exempted from assessment up to a total of 10 per cent. of the cultivated area. In 1879 [2] the rules which directed (1) that the land occupied by a grove, and exempted accordingly, should be liable to assessment on the trees being cut down, unless they were replanted within a reasonable time, and (2) that a reduction of assessment should be made on account of assessed land subsequently planted with trees, so long as the total area of revenue-free grove-land did not exceed 10 per cent. of the cultivated area, were placed in abeyance. But all lands had the full benefit of the rule which exempted grove-land existing at the time of Settlement (up to the 10 per cent. limit), since all the Settlements had been completed before 1879.

The *Administration Report* of 1882–83 thus describes the Oudh assessments :—

> 'The principles on which the assessment was made varied considerably with the discretion of the Settlement Officer, and differed from those in use in the North-Western Provinces mainly in being less regularly scientific. The system adopted in the Rai Bareli district, though by no means that adopted in all districts, may be taken as representative in some degree of the principles usually accepted.
>
> 'Its distinctive feature was that it was done village by

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[1] In Oudh also, the village rent-rates were allowed to be much more affected by the *caste* of cultivators than in other parts. Thus, in several of the Oudh Settlements an abstract of the rental of each village has been prepared showing the principal castes (e.g. Brahmans, Rajputs, Kurmis, Murāos, and 'others'); the area held by each is shown, the rent paid, and the rate per acre or per bighá which this gives. Against this is shown the 'proposed rate' and the rental for the village which this would give.

[2] Circular II of 1879. No. 7 of Part I, *Revenue Manual*.

village each on its own basis alone, and no general rates were used or reported.'

There were no soil-rates and no crop-rates, and though, after the assessment was made, general rates applicable to an entire pargana, were compiled from the (several) village rent-rates, this was done mainly for the satisfaction of the controlling authorities, and were not made use of, except where the village rent-rolls were found to be unreliable.

The village rent-rates were classified by a cross division: *first*, the rents were classified according as they were paid by high-caste tenants or proprietors, and were therefore too low; or by Kurmís and other special classes of tenants, and were too high to serve as a *general* standard. The land held by other castes was accepted as giving (*quâ* the caste) representative rents. *Second*, the rates were classified according to zones of land—the homestead, middle, and outlying, already alluded to—the rents varying naturally with the distance from the village and the facilities for using manure. Each class was further divided into *irrigated* and *unirrigated* rates. The actual rental paid on the different holdings in each zone was then divided by the area, and so average rates appeared. These rents could be compared with the representative rents according to caste, and thus it was determined what was a proper rate to put on all the lands which were under-rented or paid no rent at all—for, of course, to get the actual assets of an estate, *all* the lands must show their 'real' or proper rental, unless, like groves, they are intended to be left out of calculation altogether.

The possibility of this method depended a good deal on the accuracy of the recorded rent-rolls, which, on the whole, were well kept and trustworthy. In the north of the province, where cultivation was comparatively recent, and rents were not uncommonly still taken in kind, the analysis of rent-rolls had to be supplemented by estimates of the value of grain-rents.

It is said that the plan adopted gave an equable assessment, but also gave the highest rate of revenue paid in any district under the North-Western Government.

The *general average* assessment-rate (R. 1–11–9 per acre) in Oudh is, however, only five pie higher than that of the North-Western Provinces (R. 1–11–4 per acre).

§ 2. *Cesses.*

The Oudh assessments were made on the usual plan of 'half assets'—the principal assets being the ascertained rents, as above described. The actual jama' was 51¼ per cent., because this included 1¼ per cent. for cesses—the Road, Postal, and School funds—which were not separately assessed as in other places.

A separate cess was taken for the cost of patwárís, when they were village servants; but, as will appear later, this was abolished in 1882, and was only restored in 1889, in a modified form[1].

The cesses are now 2½ per cent. on the revenue for the Road and Schools, &c.; and, by Act IV of 1878, a further 2¼ per cent. (on the 'annual value of land,' as defined in the Act) is levied to enable the State better to meet the expenses of, and provide insurance against, prospective famines. The Patwárí Cess, under Act IX of 1889, is also 2 *per cent.* on the annual value (comes to 4 per cent. on the revenue).

SECTION III.—ARRANGEMENTS SUBSEQUENT TO ASSESSMENT.

§ 1. *Persons Settled with.—Engagement Form, &c.*

Section 26 of the Act formulates (and makes the law for future guidance) the principle adopted in the Settlements, as already described.

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[1] *Digest*, Section V, § 26. The total receipts from the cesses in 1882 were R. 3,65,825, and R. 6,57,579, respectively.

The Settlement must be made—

(*a*) In taluqdárí estates, with the Taluqdár;

(*b*) where there are two classes, a superior and inferior, though not a regular taluqdárí tenure, with either, as the Chief Commissioner directs;

(*c*) in ordinary proprietary estates, with the proprietor; if the proprietor is a joint-body, with the body.

Where there is a mortgagee in possession, the Settlement is with him; if the proprietor or Taluqdár is incapable, the Settlement is with his guardian, or manager of his estate.

In Oudh the engagement paper is called 'qabúliyat.' The agreement specifies the arrangements made affecting assessment when the estate is increased by alluvion or diminished by diluvion, and stipulates that village watchmen (chaukidár) may be provided at the expense of the Settlement-holder[1].

Act XVII. of 1876. Sec. 43. Sec. 45. The Settlements require the confirmation of the Governor-General in Council, and the assessment of any estate may be revised at any time before confirmation.

§ 2. *Joint Liability.*

As regards the joint liability of estates consisting of bodies of co-sharers, wherever the Settlement is (not taluqdárí, but) with the village body direct, the provisions of the law are virtually the same as in the North-Western Provinces. Sec. 29, &c. The Oudh Act, however, contains further provisions, necessitated by the fact that, in a taluqdárí estate, though the estate is one, there are a number of villages composing it. These separate villages are not together jointly liable. The assessment due on each village, or part of one, constituting a 'mahál,' is declared as well as the total assessment of the taluqa estate (but see § 12, post).

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[1] See *Digest*, Section IV, § 29. I purposely omit the allusion to the patwáris in these documents; as they are now superseded by Act IX of 1889.

§ 3. *Refusal to Engage.*

Sec. 32. Should a Taluqdár refuse to engage, it is provided that a report shall be made to the Chief Commissioner, who will hear the Taluqdár's reasons; if his objection proves unreasonable, he may be excluded from Settlement of the estate *or* any *part* of it, for a term not exceeding fifteen years. A Taluqdár cannot, however, be excluded from his *whole* taluqa without the sanction of the Governor-General in Council. The estate (or the part of it) in such cases, is farmed, but the farm is to be offered to a sub-proprietor in the taluqdárí, if there is one, enjoying a sub-Settlement. As usual, provision is made for a money-allowance to an excluded Taluqdár.

In case of refusal by proprietors other than Taluqdárs or sharers in a community of proprietors, the provisions do not materially differ from those described in the North-Western Provinces: the excluded proprietor retains his own (or sír) lands, as an occupancy-tenant, 'at one-fourth less rates than would have been paid by a tenant-at-will.'

Sec. 32-5. The exclusion is for a period not exceeding fifteen years, on the conclusion of which the offer is renewed to the Taluqdár or other proprietor, to take his estate for the remainder of the term of Settlement.

If he again refuses, the exclusion (on the same terms as to *sír* land and allowances) may be renewed for a further period or for the whole Settlement. Sec. 39.

§ 4. *Alteration of Assessments.—Remission of Rent.*

The assessment is only altered during the currency of the Settlement (thirty years), when revenue-free holdings fall in —which were granted *conditionally*, or for a term, or for life. Act XVII of 1876, Section 46, requires an *annual* inquiry by the District Officer, and the land may be assessed under orders of the Chief Commissioner[1].

An increment to the estate by alluvion involves an increased assessment (under the rules which will afterwards be alluded to).

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[1] See Oudh *Revenue Manual*, Part I. Nos. 2 and 3.

Act XVII. of 1876, Sec. 49. It is here important to note that when, on the occurrence of calamity, or loss of harvest, Government reduces the assessment, or remits, or suspends, the revenue-instalment, and the land so benefited is in the hands of an under-proprietor or lessee *whose rent has been fixed* (as above explained), the Chief Commissioner 'may declare' that the under-proprietor or lessee is entitled to a proportionate reduction, remission, or suspension on *his* rent.

Sec. 50. When these alterations in assessment are needed, the District Officer has powers as if he were a Settlement Officer.

SECTION IV.—SUB-SETTLEMENTS.

§ 1. *Special Importance in Oudh.*

I have already explained the use of sub-Settlements (p. 230, ante). The subject is of characteristic importance in Oudh.

In the North-Western Provinces (and in the Panjáb), the reader will have observed that a few general provisions on the subject were sufficient, since the cases in which there happened to be several persons in coincident proprietary connection with an estate—i. e. where there is a superior and an inferior proprietor—are not difficult to deal with.

The section on Tenures has sufficiently explained when it is that the village-body is entitled to be recorded as *under-proprietor and to have a sub-Settlement*, and when the under-proprietors were in such a position that they *had no right* to a sub-Settlement. The rules defining who were entitled to a sub-Settlement, and what different terms applied to each different class of them, are to be found (as already stated) in Act XXVI of 1866. I have also mentioned that it was a rule in Oudh that the Settlement Court should record *a formal decree for every individual village*, deciding whether it was in one position or the other[1].

The Sub-Settlement Act having determined when a sub-

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[1] *Digest*, Section IV, § 20.

Settlement was to be made, the Act XVII of 1876 has only to provide generally, that the Settlement Officer is to assess the 'rent'[1] of *all* under-proprietors (i. e. whether entitled to a sub-Settlement or not), and even of persons who hold *heritable*, but *not transferable*, leases, where the rate is not specially fixed by agreement. So that it comes to this, that persons entitled to a sub-Settlement differ in position from those who are not so entitled, to this extent, that their tenures are to a greater or less degree more advantageous than the other[2], and that certain special provisions exist as to the validity of incumbrances on the sale of their right, in execution of decree[3]. Act XVII of 1876, Sec. 40.

Where the sub-proprietors or others whose 'rent' is fixed under this section are a joint body, *there is the same joint and several liability to the* Taluqdár that there would have been to Government.

SECTION V.—THE SETTLEMENT RECORDS.

§ 1. *Form of Record.*

The Land-Revenue Act leaves it to the Local Government to determine, by rule, what documents shall form the Settlement-record, and to provide how they are to be prepared, what facts are to be entered, and how attestation is to be made. There is nothing that calls for notice under this head. The Records are very similar to those of the North-Western Provinces[4]. What is important, and will be explained under the head of 'Revenue-business,' is the series of 'Registers,' which are prepared on the basis of the field registers, khéwat, &c., of Settlement, and are kept corrected by entry of all transfers, successions, &c., as provided by Chapter IV of the Revenue Act. Sec. 16.

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[1] In Oudh (by the definition in the Rent Act) 'Rent' is applied to *all* payments on account of the use and occupation of land, *except* payment to *Government*, when it is called Revenue.

[2] And they in common with *all* under-proprietors—sir-holders, birtyás, &c.,—are not liable to distraint, but can only be sued for arrears in the Revenue Courts. See Act XXII of 1886, Section 72 (and definition of 'tenant').

[3] Act XXII of 1886, Sections 152, 153, &c.

[4] See *Revenue Manual* (Circular) Part II. No. 16, where the forms of the various documents are given.

CHAPTER IV.

LAND-REVENUE OFFICERS, THEIR BUSINESS AND PROCEDURE (NORTH-WESTERN PROVINCES AND OUDH).

SECTION I.—REVENUE OFFICERS.

Act XIX. of 1873, Sec. 4.

IN the NORTH-WESTERN PROVINCES, immediately under the Local Government, and with a general supervision over the entire revenue administration, is the *Board of Revenue*, whose office is at Allahabad.

The Board consists of two members, with a Senior and a Junior Secretary. It supervises the administration of the land-revenue, and also the excise, stamp, and licence-tax revenues, and has other duties in connection with the Court of Wards, and the legal business of Government, with which we are not here concerned. The Board is also a Court of final appeal and revision under the Land-Revenue Act (XIX of 1873), and, in certain cases, under the Rent Act. For the powers of the Board, and of its single members, the Land-Revenue Act, Sections 4 to 10, inclusive, may be consulted. The origin of the Board has already been mentioned. It arose out of what was at first intended to be a special and temporary Commission, appointed to make the last of the series of Settlements under the early Regulations, i. e. prior to Regulation VII of 1822. The Commission was then made into a permanent Board of Revenue. The Board does not control OUDH revenue affairs, which are directly under the Chief Commissioner (at one time there was a Financial Commissioner).

Act XII. of 1881, Sec. 198.

Act XVII. of 1876, Sec. 3.

The unit of administration territorially is the *District*[1]. A number of districts united form a *Division*, presided over by a Commissioner, who supervises the revenue-administration (with which alone we are concerned), and is an Appellate Court from orders in revenue and rent cases passed by the District Officer. The Local Government has power to appoint an *additional Commissioner* for a Division.

Act XIX of 1873. Sec. 11, 11 A.

The Commissioner in the North-Western Provinces usually has six districts under him, and he is the channel of communication between the District Officer and the Board of Revenue[2].

The officer in charge of the district is the *Collector*[3], the office being derived from the Bengal system. In some of the districts 'scheduled' under Act XIV of 1874 (viz. the Jhánsi districts), this officer is styled 'Deputy Commissioner,' and so he is in the twelve districts of OUDH.

'Primarily,' says the *Administration Report*, 1882-83,

> 'the District Officer is responsible for the peace of the district, and the collection of its revenue, but there is no branch of the administration with which he is not concerned. He is the head of the police; is responsible for the work of the district treasury, superintends the excise and the collection of the revenue from stamps; is still in many cases (and was always till lately) president of all the municipalities in his district, and of the district committee for the expenditure of local rates. He is required to interest himself in all matters in which Government has any concern, and to look after escheats, sanitation, roads, and arboriculture. He also hears the criminal and revenue appeals from the subordinate Courts.'

It will not be supposed that the District Officer attends to the direct details of these multifarious departments, but rather keeps a controlling hand over them all; for example, the police is directly managed by the District Superintendent. For treasury work, a Deputy Collector is appointed, and there are one or more Assistant Magistrates and Collectors besides Native Deputy Collectors (originally appointed under Regulation IX of 1833).

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[1] The average size of the district (omitting the hill country of Kumáon) is 2036 square miles, and the population 936,122.

[2] But the Benares division has seven districts (and will probably be divided again); Jhánsi has three large districts.

[3] His official title is 'Magistrate and Collector' as he possesses magisterial functions. This is necessary, as he is the chief executive authority as well as Revenue Collector, and the representative of the State in his district. He does not, of course, undertake any large share in the ordinary magisterial (criminal case) work of the district; that is done by the Joint, Assistant, and Deputy Magistrates, who have the various magisterial powers of first, second, and third class, under the Criminal Procedure Code, and dispose of the bulk of the work.

N.-W.P. Rev. Act, Sec. 13.

The Senior Assistant has the official designation of 'Joint Magistrate and Deputy Collector'; but, under the revenue law, he is an Assistant Collector of the first class; other Assistants may be of the first class or second class.

N.-W.P. Act, Sec. 15. Oudh Act, Sec. 6.

An Assistant Collector of the first class may be in charge of one or more subdivisions of a district[1].

The native Deputy Collectors are, under the Act, vested with powers of a first-class or a second-class Assistant Collector, according to their standing and qualifications. But, even with the aid of Assistant and Deputy Collectors, the District Officer could hardly control his district, were it not that—apart from any separation into subdivisions under Assistant Collectors, which occurs in large districts—every district contains a number of manageable-sized revenue subdivisions, called *Tahsíls*. The officer in charge is a Tahsíldár, appointed by the Board of Revenue according to rules framed under the Act[2]. He is usually invested with powers of an Assistant Collector, first class. In Oudh, the Tahsíldár is appointed by the Chief Commissioner. Each tahsíl is, in fact, in miniature, what the district is in large.

N.-W.P. Rev. Act, Sec. 22.

Oudh Act, Sec. 13.

There is a Tahsíl treasury, with a staff of accountants, into which the village headmen pay their revenue. Under the Tahsíldár, again, come the staff of 'kánúngos,' whose functions will be described presently; and these officers exist principally for the purpose of securing revenue and agricultural statistics and land records, and for the supervision of the *patwárís.*

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[1] For his powers (subject to the control of the Collector) see the Land-Revenue Act, Section 235. The Oudh rule is the same—Act XVII of 1876, sections 178–79. Officers vested with second-class powers do not *decide* anything; they have power to investigate and report on cases (North-Western Provinces Act, Section 237; Oudh Act, Section 180).

[2] See *Board's Circulars*, Dep. IX, pp. 162–168.

In fact, the revenue-administration depends on a well-supervised and mutually connected chain of official duty. This commences with the patwárí, whose duty is to maintain records of all facts relating to the land-holding, cultivation, and general condition of each village, and the payment of rents and revenues. It is by aid of these records (aided by local inspection) that the Collector can know the state of every village—whether it is in arrears, whether it is in distress, whether suspension or remission of revenue is called for, and so forth. The next link in the chain is the kánúngo, and next the Tahsíldár, who, if he is a good man and active, is really the keystone of practical administration, as he ought to know, and often does know, everybody, as well as everything that goes on, in his tahsíl. Lastly, come the Collector and his assistants. The supervision of the Commissioners, the Board, and (in the last resort) the Local Government, secures the working of the entire machine.

§ 1. *Revenue Courts.*

As a number of matters arising in the course of revenue-administration (not only suits for arrears of rent or ejectment of tenants) are contentious matters, involving the summoning and hearing of two or more parties, and, perhaps, taking evidence and pronouncing a decision, the Revenue officers, when dealing with such matters, are called Revenue Courts. The Board, the Commissioner, the Collector, and the Assistant Collector and Tahsíldár, under the Land-Revenue Laws, are thus constituted or styled 'Revenue Courts,' whether of first instance or of appeal and revision[1]. The subordinate officials, below the grade of Tahsíldár (i. e. all who are not *first*-class Assistants) have no power of deciding anything; and officials vested with the powers of an Assistant Collector of the *second*-class, can only investigate and report on cases, which they submit for the orders of the higher-grade Revenue officers. But second-class Assistants may be employed on revenue business, such as maintenance of records, which does not involve any decision on contentious matters. In land-revenue matters (other than between landlord and tenant) the Acts provide for holding Courts at certain places, for the procedure in summoning parties or witnesses, referring to arbitration, and executing decisions.

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[1] In Oudh the corresponding gradation is Chief Commissioner, Commissioner, Deputy Commissioner, Assistant and Extra Assistant Commissioner, Tahsildár.

N.-W.P. Rev. Act (XIX of 1873) ch. vii, viii, ix. Oudh (XVII of 1876), ch. ix, x, xi, and xiii.

A glance at the Acts will show what a number of matters are within land-revenue jurisdiction. The provisions for an appeal from decisions and orders are contained in Chapter IX of the Act (Oudh, Chapter X), to which reference may be made.

N.-W.P. Act, Sec. 235. Oudh, Sec. 178.

§ 2. *Exclusion of Civil Court Jurisdiction.*

As a natural consequence of investing land-revenue officers with such powers, their jurisdiction is exclusive,—that is, the Civil Courts cannot interfere or entertain suits regarding the subjects of which a list is given.

N.-W.P. Acts, Sec. 241. Oudh, Sec. 219.

The most important of these are (North-Western Provinces)—that no civil suit can be brought by persons claiming to hold the office of patwárí and kánúngo, nor by a person claiming the right to have the Settlement made with him, nor on the subject of the validity of any engagement with Government to pay the revenue, nor regarding the amount of assessment, nor regarding the determination of the class of a tenant or the rent payable by him, nor the period for which such rent is fixed under the Act. Nor can a civil suit be brought regarding the decision at Settlement in cases of 'double' or taluqdárí tenure as to which party is to be settled with, and what provision is to be made for the other; nor regarding the arrangements made about surplus waste land, nor regarding the resumption of revenue-free grants; nor regarding the distribution of lands or revenue at a partition; nor regarding the collection of revenue, or a sale for arrears (except in certain cases ex-

See N.-W.P. Act, Sec. 53–56. Sec. 57–61. Sec. 79–89, and 103.

pressly provided). All these matters are settled by the Revenue Courts, subject to appeal and revision and review as provided by law. The duties of Revenue Courts under the Rent Act are separately considered further on.

Oudh Act, sec. 219.

The Oudh law is very similar, allowance being made for the special features of Oudh revenue-administration.

§ 3. *The Subordinate Staff.*

N.-W.P. Act, sec. 16. Oudh Act, sec. 8.

We may now turn to the subordinate staff, who report and record but decide nothing; consequently, they have no powers under the Land-Revenue and Rent Acts, but are subordinate to the Collector or Assistant in charge of a subdivision. These are the *kánúngo* and the *pátwarí*. We may, also, include in our notice the 'lambardár,' or village headman; for Settlement purposes, indeed, he is merely the *representative* of the body of co-sharers; but as headman, he has certain legal duties, responsibilities, and functions which entitle him to a place in a sketch of the revenue-administration of the Province.

§ 4. *The Kánúngo.*

N.-W.P. Act, sec. 33 35 Oudh Act, sec. 220.

All that the Land-Revenue Act says on the subject is that one or more kánúngos may be appointed in each tahsíl 'for the proper supervision, maintenance, and correction of the patwárís' records.' In Oudh this matter is left to rules made by the Local Government. The salary is fixed from time to time by the Government. Every kánúngo is declared to be a 'public servant' within the meaning of the Indian Penal Code. The records he keeps are public records and are the property of Government. (This latter is not mentioned in the Oudh Act, but it is true in Oudh also.) The title kánúngo (qánún-go—literally the officer who 'says' what is the 'rule or law') comes down to us from Mughal times. In olden time, in the absence of a definite Revenue law, an official was required to say what was the proper assessment, and what was the proper rule of practice in case of doubt or dispute.

He was the registrar and account-keeper in all revenue-matters and the general referee. Under our modern system, speaking generally, the kánúngo is maintained for the purpose of inspecting, and seeing that every village patwárí keeps up his books and statistical returns, and does his duty.

Two or three of them are attached to each tahsíl; one, generally the elder, is kept in the office as the 'Registrar kánúngo'; the others are the active or 'supervising kánúngos'; over them all is an experienced sadr-kánúngo[1], who remains at the Collector's head-quarters. The office is (by law in the North-Western Provinces) hereditary, if a qualified heir can be found in the direct line of descent. A kánúngo's heir, who is designed to succeed him, must be sent to school and must pass an examination[2]. Various subordinate posts connected with revenue work are then available to him when he grows up, and in these he may gain experience till such time as he actually succeeds to the appointment of kánúngo. The 'Registrar kánúngo' pays the patwárís, keeps (at the tahsíl) the 'filed' patwárís' papers, and keeps and issues the blank volumes of forms; he also makes reports to the revenue-officers when called on, and keeps up a series of registers which need not be detailed here. The most important of them is the 'pargana' book which shows in a brief form the totals of each patwárí's village book, so that on each village page, one line only has to be written annually, being a transcript of the corresponding totals in the patwárí's village records[3].

N.-W.P. Act, sec. 33.

'Supervising kánúngos' are charged with constant supervision and inspection of patwárís, with the instruction of the patwárís' heirs in their future duties, and with making local inquiries. They keep diaries showing their occupation[4].

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[1] *S. B. Cir.* Part III,—Rules for Kánúngos, and Oudh *Revenue Manual*, Part VII. No. 6.

[2] *S. B. Cir.* Part III. Chap. II. and Chap. IV. § 30.

[3] *Circular* 5 *P of* 1884, Department of Agriculture and Land Records. North-Western Provinces and Oudh.

[4] *S. B. Cir.* Part III. Chap. XV, p. 35.

The 'sadr-kánúngo' remains at the district head-quarters[1]. He compiles statements for the whole district from those of each tahsíl staff. In the cold season he makes a general tour of inspection to see to the working of the tahsíl kánúngos.

§ 5. *Pargana Note-books.*

The 'pargana book' is a very valuable record, and it will be well to give the heads of information which it contains.

It represents the yearly *totals* of the columns of the statistical tables for each village in the *pargana*, which is the local group of villages, known by one name, and of which there are several in each tahsíl. There are six pages devoted to each village. The first gives the *permanent* statistics, thus:—

1. Name of village			Sacherí.
2. Population	Adults	males .	2441
		females .	1898
	Minors	males .	152
		females .	262
		Total .	4753
3. Total area			(acres) 4401·84
4. Government demand at last Settlement .			R. 5570
5. Number of co-sharers at last Settlement .			4
6. Description of Tenure			zamíndárí (undivided)
7. Names and areas of constituent mahâls (if any)[2].			

On the second and third pages the *variable* statistics are given in the form shown on the following page[3]:—

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[1] *Id.* Chap. XXII, p. 47.

[2] This refers to cases where, in consequence of partition or other cause, parts of the village have become a separate estate with a separate revenue charge and responsibility (see p. 258).

[3] 'Fasli' is the Muhammadan official (solar) year, now beginning in Upper India on 2nd April. The terms 'Milán-khasra,' &c., in columns 1, 2, 3, 4, &c., will be explained presently in speaking of the *patwári's* records.

YEAR.		Total cultivated area as in column 6 of the Milán-Khasra.	Total rent demand as in column 6, Part I of the Mahál-Register.	Total rent collections as in column 11, Part I of the Mahál Register.	Number of suits for arrears of rent.	Number of ejectment cases.	COERCIVE PROCESSES FOR REALIZATION OF ARREARS OF REVENUE.		Number of transfers.	Area of sír and land cultivated by proprietors, total of columns 3 and 4, Part II of the Mahál Register.	Area held in occupancy right or for more than twelve years, total of columns 6 and 7a and 8a of Part II of the Mahál Register.	IRRIGATED AREA AS IN COLUMNS 2, 3, AND 4. OF THE MILAN-KHASRA.			
							Number.	Kind.				From wells.	From canals.	From tanks or other sources.	Total.
		2	3	4	5	6	7		8	9	10	11 a	b	c	d
Year (Settlement.)	Fasli A.D.														
Year	Fasli A.D.														
Year	Fasli A.D.														
Year	Fasli A.D.														

In the course of time, these important figures for each year will accumulate, and statistical results can then be averaged with confidence. The remaining three pages allotted to the village are reserved for brief manuscript entries of any notable occurrence; as explained in the following extract from the *Director's Circular*:—

'7. The book should be made up by November 1st, for the agricultural year preceding.

'8. The Collector and Assistant Collectors when on tour, and any other officer to whom the Collector may entrust the work, should, on entering any pargana, call for the pargana book and carefully scrutinize the entries for each village. If he notices any great variations in the entries of cultivated area, rent, or collections, or any unusual resort to the rent courts, or use of coercive processes, or great number of transfers, he should make a note of the fact, and make inquiry into the cause. If it should appear that anything has occurred which seriously affects the agricultural conditions of any village, or requires official investigation or personal inspection, he should visit the village in which it has occurred. This the Board consider of great importance.

'10. If in the course of his inquiries or at a personal visit to the village, the Collector or other officer ascertains any fact which he considers to be worthy of permanent record, he should make a very short note of it on one of the blank pages set apart for the village in the pargana book. Such facts would be any exceptional poverty or wealth in the cultivators or the proprietors, any liability to loss of crop from inundation or defective irrigation or poverty of the soil, or any other cause, increase or decrease of population, or number of cattle, the character of the zamíndárs and the cultivators, and the terms on which they stand to one another; the possibility of improving the village by drainage or irrigation works, the existence of crime, and, in short, any fact that can have an important bearing on the Government revenue, or the circumstances of any class of the residents in the village. The book is not meant for the entry of any detailed proceedings, which should be recorded separately.

'11. Bound-up books can be had by application to the office of the Director, Department of Agriculture [and Land-Records]. The indent should specify the number of villages required in each volume. Ordinarily there will be one book for each pargana, but if the number of villages in any one pargana exceeds sixty, it will make the book inconveniently bulky, and it will be better to split it into two or more.

'12. Ten blank pages should be left at the end of each volume. On these, as soon as sufficient data have been collected to serve as the basis of a classification, should be inserted an index of the maháls in the pargana which, from defective irrigation or other causes, are liable, more or less, to periodical loss of crop, and demand, for these or other reasons, more or less attention in the collection of the land-revenue from the district and pargana officials.

'13. These books when not required by inspecting officers, will be kept at the tahsil by the Registrar Kánúngos[1].'

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[1] In the North-Western Provinces and Oudh together there are:—

Sadr Kánúngos . .	35
Registrar do. . .	195
Supervising do. . .	432
Patwáris . . .	21,588

The Supervisor looks after an average area of 87,449 acres, of which 53,142 are cultivated, and the patwári 2110 acres, of which 1273 are cultivated.—*Administration Report*, 1882–83, p. 48.

§ 6. *The Patwárí (North-Western Provinces).*

The patwárí is, in effect, the *accountant of the village*, both as regards the revenue-payments due from the various co-sharers, the distribution of the profits of the joint-estate, and the accounts of rent payment between landlord and tenant; he is also the *registrar of changes in ownership* due to succession and transfer: he is also the *recorder of statistics* of the village.

Act XIX. of 1873, sec. 23 *et seq.*

The appointment, &c., of patwárís is provided under the Land-Revenue Act.

A patwárí is not ordinarily required for each village, but for *a circle of villages* as arranged by the Collector.

The landholders in the circle *nominate* according to local custom, but the Collector (or Assistant in charge) controls the appointment. The office is not necessarily hereditary, but preference is given to a member of the family of the late holder, if he is qualified. The patwárí has a salary the amount of which is fixed by the Board of Revenue, and a rate is levied, along with the land-revenue, to meet the cost of this salary. Every patwárí is a public servant, and the records he keeps are public property. His duties and the forms of records and accounts which he has to maintain and submit periodically have all been prescribed in a very complete group of Circulars by the Board of Revenue[1]. Sec. 35.

In order to provide that future patwárís shall be sufficiently educated to enable them to perform their duty, the rules require the successor-designate of the existing official, to be sent to school. Means are also provided, through the agency of the kánúngo, for teaching all patwárís to survey.

§ 7. *Patwárís' Village Accounts.*

The 'patwárís' papers' are so constantly alluded to in revenue proceedings, that it will be desirable to give some account of these documents. They may be grouped under the head of (1) village accounts, (2) official records for the information of the Collector and for use at future Settlements, &c.

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[1] Circulars about patwárís are now grouped together in Part III of the *S. B. Cir.*

For the purposes of village-account he keeps—

(a) The 'bahi-khátá,'—is a general ledger showing the holdings and payments of each proprietor and cultivator;

(b) The wásil-báqi. This is a rent-account showing the holdings and the tenants who cultivate them, the rent claimed for each, with the amount paid, the balance, and the arrears, if any;

(c) The 'jama'-k͟harch.' This is a profit and loss account of the proprietors. Disbursements for revenue, cesses, lambardárs' allowances, and village expenses, are entered on one side, and the receipts from rents and other sources of common profits on the other.

Besides these accounts, the patwárí keeps for general purposes a 'roznámcha' or diary, which is simply a narrative of everything that he does, or that happens, in his circle.

These books are preserved for four years after the close of the year to which they relate.

§ 8. *Patwárís' Statistical Records.*

But the patwárí has also to maintain another set of records relating to the condition of each village and its produce, showing the improvement or deterioration of the estate, and containing other statistical information of a similar character.

The maintenance of the village maps is also one of his most important duties.

If the maps, once correctly drawn out at Settlement, can be kept accurate, i. e. if all changes in cultivation and other features are from time to time entered in distinctive red lines, the expense of re-survey at future Settlements will be almost wholly avoided. In the same way with the statistical records. If reliable statistics of progress in cultivation, of the produce of land, and the rise or fall in value of land as shown by the *true* rental, i.e. the actual terms which proprietors can get for the use of it, can be made available, the task of revising Settlements, and of judging whether revision is necessary at all, will be indefinitely lightened[1]. It is also needless to point out how valuable such statistical information is for many other purposes connected with good government.

Great attention is therefore directed to the proper preparation of the patwárí's papers and also to the maintenance of the village maps.

Both objects are dependent on a field-to-field inspection done under supervision; and the first thing is to furnish the patwárí with a number of copies[2] of the village map as it has issued from the Cadastral Survey Office. He has also a 'khasra' or field-book, which is an index to the map. This shows the numbers of the fields as in the Settlement *khasra*, but the other columns are blank, and it is the patwárí's duty now to fill them in, according to actual facts as they are at the time when he makes his inspection[3]. During the inspection, also, he marks all changes in the size and division of fields, or any other changes, such as roads, drains, or wells, in his village map. These maps and their corresponding tabular *khasras* for each year, are filed and kept in the tahsíl, being deposited there as soon as the year closes.

A second volume of records consists of statements or abstracts compiled from the field khasras, so as to show in convenient forms, and separately, the different classes of facts. These statements are:—

(1) '*Milán khasra*,' a *comparative* statement (hence the name) showing the total area of the year as compared with that of the previous year, under the heads of culti-

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[1] See an excellent Note prefaced to the *Board's Circulars*, Part III.

[2] Now usually prepared by photozincography.

[3] For example, his khasra before the rabi' (spring) harvest will show all the fields, &c., that have spring crops of different kinds, and when again he makes an inspection in the kharif (autumn) he will show those that bear sugarcane and other autumn crops.

vated, culturable, and barren; and showing also what land is irrigated and what is unirrigated, how much is barren, covered with trees, and so forth. The number of wells of each kind is also stated.

(2) '*Naqsha jinswár,*' or abstract statement of crops. This shows the area under each kind of crop, both on irrigated and unirrigated land. It is prepared separately for each harvest.

(3) '*Naqsha bágháit,*' a statement of groves and orchards.

(4) '*Jama'bandi.*' This paper is the annual rent-roll to which allusion has been made. It is brought on separate forms for tenants who pay *cash rents* and those who pay *in kind.*

(5) Lastly, there is the *Dákhil-khárij Khéwat,* or register showing all the changes in the proprietorship and shares in land. It is prepared so as to show, first, the 'opening khéwat' or state of proprietorship as it was on the last day of the previous year; and, second, the intermediate changes or 'closing khéwat' as it stands at the close of the present year.

All those records are bound into four volumes:—

Statistical Records.	*Volume I.*—The Khasra (field-statement). *Volume II.*—The land and crop statements compiled or abstracted from the Khasra. *Volume III.*—The Jamabandi (tenants and rent-roll) and Dákhil-khárij Khéwat (Transfer Register).
Village Accounts.	*Volume IV.*—The Wásilbáqi and Jama'kharch, or village accounts.

§ 9. *The Patwárí in Oudh.*

In this province the system has not received quite the same development as in the North-Western Provinces.

It must be borne in mind that originally, under the Native system, the patwárí was always an essential figure in the village constitution; but he was a village servant, getting paid by certain perquisites, and usually a plot of land held free or at a favourable rate. At a very early period he was brought into connection with the ruler, as specially able to secure the due collection of the Rájá's share. His appointment and remuneration were then cared for by the State even more than in the case of the headman. In Bengal, as we have seen, the system of patwárís on this basis, had fallen into disuse, because the village proprietary rights had been overborne; and the attempt to revive the office has (except in certain places) been abandoned. In the North-Western Provinces it was early seen that, with proprietary-communities and small holdings, the patwárí was a most essential institution. He was, therefore, more completely recognized as a Government servant and given a fixed salary. His education was provided for, and his duties multiplied and minutely prescribed: only the appointment and the succession to the office are regulated to some extent by ancient custom, as regards the hereditary right.

In Oudh the same thing would have happened as in Bengal, had the Government only settled with the Taluqdár landlords and taken no thought of the rights of the village-cultivators, in their various degrees of interest in the soil. As it was, the villages being subordinate to the Taluqdár, the patwárís, though indispensable owing to the vitality of village rights, were nevertheless regarded as the servants of the landlords, and were remunerated by them by grants of land, by cash allowances, or by customary dues levied on the tenants. It would have been distasteful to introduce so complete a change at Settlement as to make the patwárí's appointment to depend entirely on the District Officer, and his remuneration to be a Government salary raised by a cess. It was decided, therefore, not to impose any 'patwárí's cess'; but in their qabúliyats, the landlords engaged that it should be open to the Government hereafter to make such modified arrangements as they thought fit.

Act XVII of 1876, chap. XII.

Finally, the matter was dealt with in the Land-Revenue Act. By this the Chief Commissioner was authorized to require the appointment (by the Taluqdár) of a patwárí for any village or group of villages or other local area, and to make rules for regulating the qualifications and duties of these officers. In estates *other than taluqas* the Deputy Commissioner was empowered (subject to rules made by the Chief Commissioner) to appoint, suspend, and dismiss the patwáris; and the Chief Commissioner was also authorized to provide for their remuneration and supervision. Thus a distinction was drawn between patwáris in *taluqa* villages and those in villages independent of *taluqas* and owned either by the village-body or by some smaller landlord not being a Taluqdár. In *taluqa estates* the law left the matter to the Taluqdárs, who were not interfered with, so long as they made proper arrangements for the performance by the patwáris of their prescribed duties, and for the submission of the accounts and returns required by the Act and Rules. On the failure of the Taluqdár to make such arrangements, the Deputy Commissioner was authorized to take action, and in cases of continued or repeated neglect, the Chief Commissioner might declare that the rules for estates other than Taluqdárí, should be applied. In practice it has not been found necessary to enforce this distinction —which is a rather invidious one—between Taluqdárí and non-Taluqdárí estates; and the practice has been to allow all classes of proprietors, equally, to appoint their own patwáris and to exercise the power of fixing the remuneration, dismissing and suspending; but this was allowed as long as men were appointed according to the standard of qualification required, and as long as their duties were properly performed. *Ib.* Sec. 213.

§ 10. *Repeal of these Provisions and enactment of Act IX of* 1889.

These sections were repealed[1] by Act XIII of 1882, but were in substance restored by Act IX of 1889, to which reference must now be made for the law regarding patwáris in Oudh. As before, no distinction is made between one class of estate and another, and while the patwárí is regarded as a Government servant, he is nominated by the estate-owners.

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[1] Very unnecessarily as many will be inclined to hold.

Patwárís are required to hold certificates of qualification in reading and writing and arithmetic, and in general duties of the office. The maximum area for one patwárí is land paying a revenue of R. 2000 (or R. 3000 in a Taluqdárí estate).

The patwárí keeps up books much as in the North-Western Provinces; he has his village accounts, his diary of occurrences, his field-list, which he checks and fills up by the inspection of every field, just in the same manner as is described in §§ 7, 8.

He also prepares at *the end of the year* (from the ledger which shows the payments made by tenants) a rent-roll or 'jamabandi' which records the rents that *actually have been paid* in the previous year.

The *Administration Report*, 1882–83 (p. 49), remarks—'The papers maintained in Oudh by the village servants which were found there at annexation, were unusually faithful records of the relations subsisting between the cultivators and their landlords.' This naturally gave hope that the institution could be maintained and perfected under the British administration.

§ 11. *Patwárí Cess (both Provinces).*

In 1882 (Act XIII) a cess of 6 per cent. on the revenue[1] which had been levied in the North-Western Provinces for the support of the patwárí agency, was abolished (it amounted to something over twenty-four lakhs of rupees in the year of abolition). In order to extend the same benefit to Oudh also, the landlords were relieved of the charge of paying their patwárís, which was henceforth to be borne by the provincial Treasury. To effect this, sections 29–31 of the North-Western Provinces Land-Revenue Act as well as Chapter XII of the Oudh Land-Revenue Act were repealed.

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[1] Or, as the repealed Section 30, Land-Revenue Act, put it—3 per cent. on the 'annual value' of the mahál.

This gratuitous relief was not really required, and proved such a burden to the State, that, in 1889, the cess was re-imposed. Act XIII of 1882 is repealed, and it is provided that a rate shall be levied on the 'annual value' (i.e. double the land-revenue where not permanently assessed) not exceeding 2 per cent.

Act IX of 1889.

This rate, together with an allotment made from provincial revenues by the Local Government, is formed into a *fund* out of which patwárís are paid. For Oudh the rate is 1½ per cent. on the 'annual value' of each estate. Practically, now, patwárís are under very nearly the same rules in both provinces; only that in Oudh the landlord nominates[1].

§ 12. *The Village Headmen in the North-Western Provinces.*

The village headmen are called *lambardárs*[2]. 'The lambardár of an estate is a person who, either on his own account, or jointly with others, or as representative of the whole or part of a proprietary community, engages with Government for the payment of the land revenue[3].'

Act XIX of 1873, sec. 44.

His duties are to pay in the land-revenue to the local treasury, to report to the kánúngo encroachments on roads or on Government waste lands, and injuries, &c., to Government buildings, and also the same with regard to boundary-marks.

If he is a representative of a number of proprietors, he has to *collect* the revenue and cesses, and is answerable for the amount. In the event of its not being paid both the lambardár and the actual holder of the land become defaulters. The lambardár has also to defray, in the first instance, the 'village expenses,' and reimburse himself in accordance with village custom. He must account to the co-sharers for these on the occasion of the 'bujhárat' or audit of village accounts.

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[1] In Oudh the relief (if it was a substantial one) to the landlords was counterbalanced by the necessary provision that, as the Government paid the *patwárís*, it should also appoint and control them as its own paid servants. This was very unpopular. It was compromised in the new Act of 1889, by leaving the nomination to the landlords, but making the office-holders responsible as Government servants.

[2] If there happens to be only one proprietor in an estate or in a 'patti,' the owner is owner and lambardár in one. Most commonly there are several, and the lambardár is then the representative.

[3] See Rules at *S. B. Cir.*, Dep. III. p. 9, issued under Section 257 of the Revenue Act. The duties noted in the text are irrespective of the responsibility enforced by the criminal law to report crime, &c.

Act XIX of 1873, sec. 148.

The lambardár, as the representative of the body, acts generally as agent for the sharers in their dealings with Government. He is appointed, in the North-Western Provinces, according to local custom, subject to a right on the part of the Collector to refuse a nominee on certain specified grounds, chiefly regarding his competence, character, and his being a sharer (in possession) of the mahál or revenue-paying estate.

In the permanently-settled districts, where the 'lambardár' is not a necessary or an indigenous institution, his post is purely honorary, and is said to be 'steadily losing vitality.' In other districts, the lambardár generally receives a 'haq-ul-tahsíl' or collecting fee, which he is allowed to recover, at the rate of 5 per cent. on the revenue, from the co-sharers, as if it was an item of 'malba' or general village expenditure. As just now stated, the lambardár disburses such expenses himself and then recovers at the audit of accounts, before distributing the profits of the estate to the co-sharers[1]. The 'haq-tahsíl' does not always exist, and is, in fact, a matter of custom recorded in the wájib-ul-'arz (or record of village custom). In *jointly-held* villages, where the lambardár has real trouble in collecting rents from the common tenants, he, of course, deserves his '5 per cent.,' and it is allowed him ungrudgingly. But elsewhere, in divided villages, the lambardár has really nothing to do but to collect the *revenue* from the co-sharers; and as in many cases the co-sharers obtain permission to pay direct—not through the lambardár—(B. C. Dep. III, Cir. 3), they naturally resist paying a fee for nothing.

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[1] See *S. B. Cir.*, Part III. *Cir.* 7, Rule 3.

§ 13. *The Village Headmen in Oudh.*

Rules regarding lambardárs were published in 1878[1].

In estates not being those of Taluqdárs, they exist as elsewhere, and get a regular remuneration of 5 per cent. on the jama' or revenue assessment of the village. In taluqa estates the lambardárí of the village under the Taluqdár, is an honorary office.

The rules regarding the lambardár in non-taluqdárí estates are (except as regards remuneration) like those of the North-Western Provinces. In taluqdárí estates the lambardár becomes revenue-engagee, not with Government, but with the Taluqdár.

The lambardár is appointed according to local custom, but he is required to be able to read and write Hindí and to understand the village accounts. If there is no local custom, the appointment is elective, subject to certain conditions of competency and other matters to be found in the 11th rule.

The duties of an Oudh lambardár are:—

(1) To pay—
  (*a*) The Government demand on account of revenue and cesses to the officer appointed to receive it, when he represents a mahál or part of a mahál held in direct engagement with the Government;
  (*b*) the rent payable to the Taluqdár, when he represents a mahál or part of a mahál held in sub-Settlement or under a heritable, non-transferable lease.

(2) To report to the kánúngo all encroachments on roads or on Government waste lands, and all injuries to, or appropriations of, nazúl buildings[2] situated within the boundaries of the mahál.

(3) To report to the tahsíldár the destruction or removal of, or injury to, boundary marks, or any other marks erected in the mahál by order of Government.

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[1] Notification (Revenue) No. 2809 R., dated 27th September, 1878, and republished as *Circular* 23 of 1878.

[2] 'Nazúl,' as elsewhere more fully explained, means the property of Government—which has became so either because it descended from a former ruler, or has lapsed to the State.

In mahâls where the lambardár is a representative of other sharers, his duties are, in addition to those enumerated above:—

(4) To collect in accordance with village custom—
  (*a*) The Government demand on account of revenue and cesses, when he represents a mahál or part of a mahál held in direct engagement with the Government;
  (*b*) The rent payable to the Taluqdár, when he represents a mahál or part of a mahâl held in sub-Settlement or under a heritable, non-transferable lease.

(5) To defray, in the first instance, village expenses, and to reimburse himself in accordance with village custom.

(6) To render accounts to the co-sharers of the transactions referred to in clauses 4 and 5 of this rule.

SECTION II.—REVENUE BUSINESS.

I now proceed to describe briefly the chief heads of land-revenue business as follows:—

(*a*) Maintenance of the land records;
(*c*) Minor Settlements necessitated by the action of rivers, lapse of rent-free grants, &c.;
(*d*) Maintenance of boundary-marks;
(*e*) Collection of the revenue (including suspension and remission);
(*f*) Rent cases.

I need only premise that I purposely omit the subject of the Court of Wards, which is also a branch of the Collector's duty connected with land[1]. Minors, persons incapable of managing their estates, and in some cases females, may come under the Court of Wards, as provided by law. Of late years the estates so managed—greatly to their benefit—have been numerous and occupied much time; and Government has sanctioned their being taken charge of by paid and ordinarily non-official managers, of course under control of the Collector, the Commissioner, and the Board of Revenue (or Chief Commissioner in Oudh).

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[1] And finds a place in the Revenue Acts (North-Western Provinces, Chapter VI; Oudh, Chapter VIII).

Another branch of duty also omitted, is the grant of loans for agricultural improvements, under Act XIX of 1883, or general loans under Act XII of 1884. It will be sufficient for the student to know the fact that such loans are granted, and the procedure is regulated by *S. B. Cir.* 52 (April 1886), Dep. IV.

§ 1. *The Department of Agriculture and Land Records.*

The maintenance of records, which I placed first on the list (p. 288) of the subjects for our consideration, is of primary importance:—(*a*) for the information of those who have to watch the progress of the country and provide for its efficient administration[1]; (*b*) for the future work of revising Settlements.

In earlier days, when the Settlement officer had handed over the record of rights, with its maps and field-index, the faired copies were bound up and put on the office shelves for reference: but no care was taken to record *subsequent changes.* The consequence was, that when the thirty years of the Settlement came to an end, the records were out of all correspondence with the actually existing state of things, and the survey of village areas and the record of rights had to be made all over again at great cost and labour. All this is now to be at an end. Starting with the map and records correct for the year of Settlement, changes can be shown in red on copies of the map, and village statements can be compiled year by year, so as to keep them continually in as close correspondence with facts as possible[1]. To ensure this is one of the main duties of the Director of the Agriculture and Land Records.

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[1] 'Without a record' (of changes of proprietary rights) 'it is difficult to ascertain who is responsible for the Government revenue and to avoid constant and impoverishing litigation.' And again: the record of the area under each crop and showing irrigation from every source, gives Government the most sure indication of the condition of every part of the province from season to season.—(*Administration Report*, 1882–83, p. 48.)

On this subject I may quote the *Administration Report* of 1882–83 (p. 47):—

'In a minute dated November 24th, 1874, Sir J. Strachey recorded his opinion that appraisements of land for Settlement purposes were imperfect and assessments unequal and unfair, because information regarding the crops, irrigation, and cultivation of each village for a series of years was not procurable. . . . He therefore recognized the necessity of measures to secure the maintenance of correct and uniform agricultural records, and concluded that in the patwárís, who, if properly utilised, might be made as good a working staff as existed in any country, the requisite machinery for carrying out these measures would be found. In order to secure the proper standard of efficiency and provide for the uniform working of the whole staff towards the same end, as well as to prescribe the forms in which the correct statistics should be recorded, and superintend their compilation, it was thought necessary that the work should be put under the guidance of some one central authority, and this was to be the first duty of the newly-established Department of Agriculture and Commerce. A complete code of rules for the guidance of both patwárís and kánúngos was drawn up by the first Director of the Department and published in 1877. A few years later . . . such amendments as were thought necessary were introduced into a revised code, which was finally adopted in the beginning of 1883.'

§ 2. (*a*). *Dákhíl-khárij or Mutation of Proprietors' Names.*

When a proprietor dies and his heirs succeed, or when land is gifted, sold, or mortgaged with possession, the responsibility for the revenue devolves on the new holder: the record of changes is therefore essential, not only as a matter of statistics, but to ensure the revenue being taken from the right person.

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[1] The *Administration Report*, 1882–83, estimates that to make a new survey for the whole province would cost a million sterling, while an entirely new record-of-rights would cost (for the temporarily-settled districts alone) from seventy to eighty *lákhs* (100,000) of rupees.

The Land-Revenue Acts require the Collector to register all such facts, the Board prescribing the forms, and the Local Government prescribing the fees for registering them. The process is commonly spoken of as 'dákhil-khárij,' literally 'entering' (one man's name) and 'striking out' (another's). All persons succeeding to any *proprietary* right, by any process of transfer whatever, are bound to report the fact to the tahsíldár, who must get the orders of the Collector (or of the Assistant in charge) before recording the change. The Collector causes an inquiry to be made as to the *fact*. Questions of right are not entered upon.

N.-W.P. Act, sec. 94
Oudh Act, sec. 58.
N.-W.P. Act, sec. 97, and penalty for neglect, sec. 100
Oudh Act, sec. 61-4.

But there may be a dispute as to possession. A person out of possession, for example, will often try and assert his (or his supposed) right by selling or mortgaging, and when the vendee applies to have his name entered, it appears that some one is already in possession, who declares that he never sold the land and has no intention of doing so; or a widow (who ordinarily holds a life-interest) sells, and some relative asserts that the transfer is invalid as made without legal necessity. In such a case the Collector will decide on the basis of possession. But if he is unable to satisfy himself as to which party is in possession, he must ascertain 'by summary inquiry who is the person best entitled to the property, and shall put such person in possession.' He will then record the change, 'subject to any order that may be subsequently passed by the Civil Court.'

N.-W.P. Act, sec. 101.
Oudh Act, sec. 65.

All changes in landed interests, other than proprietary, are recorded by the kánúngo and patwárí, and only if *there is a dispute*, the matter is reported for the orders of the Collector or Assistant[1].

N.-W.P. Act, sec. 102.

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[1] For the general practice of dákhil-khárij, see *B. Cir.* No. 41 (June 1885) in Dep. II. I have not seen the Oudh Rules. There is no essential difference from the North-Western Provinces, but, owing to the complication of subordinate tenures, some special rules may be in existence.

(*b*). Partitions.

§ 3. *Nature of Partition Cases.*

This is one of the ways in which proprietary changes occur. The chapter on tenures will have informed the student that in some cases the village-owners enjoy the estate in common, pay the whole proceeds into a common fund, and then, after discharging the revenue, cesses, and village expenses, distribute the profits according to ancestral or other recognized shares. But besides this, the whole body is jointly liable to Government for the revenue. There may be a partition, therefore, which affects the private joint interest; and there may be one which affects the joint liability also. The partition is called (in revenue language) 'perfect' when the *joint responsibility to Government is dissolved*, and a number of new mahâls or separate estates, each with its own liability, is thereby created. 'Imperfect' partition is when—without touching the joint responsibility to Government—the shares and liabilities of the shareholders as between themselves, are declared, and the lands divided off on the ground to each sharer[1].

Partition may be applied for (*a*) to separate the 'pattís' only, leaving the holders of each pattí still united; and (*b*) to separate the individual holdings, which may be either 'perfectly' (with separate revenue responsibility) or 'imperfectly.' There was formerly a Partition Act (XIX of 1863); but it has been superseded in the North-Western Provinces by the present Revenue Act.

§ 4. *Partition Law in North-Western Provinces.*

No objection is entertained, on principle, to either kind of partition[2]. That is to say, Government does not (as it does in the Panjâb), attempt to prevent the community dissolving its joint revenue liability by a perfect partition. It is competent, however, to any co-sharer to object to perfect partition, and the revenue authorities may adjudge the matter and refuse partition. Imperfect partition cannot be granted unless all the recorded sharers agree to it. If there is a dispute about the correctness of the recorded shares, or other question of right, this must be first decided by a Civil Court, and the partition be refused pending such a decision; or the revenue officer may inquire into and decide the matter himself under the procedure laid down in the Act, and subject, in that case, to an appeal to the District or High Court (as the case may be) as if he were a Civil Court.

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[1] In some of the text-books the native term 'batwára' is confined to the perfect partition, but in common parlance it is not so.

[2] Land Revenue Act, Sections 108-139, should here be read. The partition procedure is described in *S. B. Cir.* No. 42 (October 1885), Dep. II.

N.-W.P. Act, sec. 112.
Sec. 134.
Secs. 113–6.

§ 5. *Partition Law in Oudh.*

In OUDH, Chapter V of the Revenue Act is devoted to the subject. Act XIX of 1863 was repealed for the same reason as in the North-Western Provinces. The provisions are exactly the same as in the North-Western Provinces, except that the Act does not require the assent of all the co-sharers to an imperfect partition. The Circular Orders, however, show a disposition to defer perfect partition, if the people can be persuaded to agree to accept an imperfect partition instead [1].

Oudh Laws. Act XVIII of 1873, Sched. I.

(*c*). Minor [2] Settlements necessitated by lapse of Grant, River action, &c.

§ 6. *Lapse of Revenue-free Grants.*

Changes in the Settlement arrangements have also to be provided for; they arise chiefly by the lapse or resumption of mu'áfís or jágírs (revenue-free grants). Many of these are granted only for a term, or for life, or are held conditionally. When the term or the life expires, or the conditions are not fulfilled, the grant may lapse, and then the land has to pay revenue. This involves the sanction of superior authority (1) to the fact of the lapse, in case it depends on a question whether it ought to lapse or not; (2) to the revenue to be in future assessed on it; (3) in case the grantee is not owner of the land, as to the person who is to be settled with. For the purposes of this manual it is only necessary to indicate, not to give details regarding, this subject[1].

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[1] See *Circular* 21 of 1878.

[2] Called 'Summary Settlements' in the North-Western Provinces; but this term has quite another meaning in the Panjáb, where it refers to the temporary arrangements in districts before a Regular Settlement was introduced.

§ 7. *Alluvion Assessments.*

I have already alluded to the way in which, at Settlement, lands liable to be washed away or added to by the action of rivers are dealt with, whether formed into separate 'chaks,' liable to be re-settled after short periods, or left as part of the estate at large, but requiring an alteration of the assessment when assets as a whole are affected beyond a certain limit (Chap. I, Sec. III, p. 40). The Collector has to provide for the inspection of the lands, either annually or when the period for alluvion and diluvion Settlement comes round, or when a specially heavy river-action has produced extraordinary effects, as the case may be. The checking of the measurements made by the patwárí, and the inspection of the lands with a view to assessing them, or to seeing whether the estate assets are increased or diminished, at the beginning of the cold season (when the river has subsided to its normal limits), is one of the instructive duties of the District Assistants who submit their reports to the Collector (or Deputy Commissioner). The latter ultimately proposes an assessment for the sanction of the chief revenue authority[2].

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[1] For details of practice the Act (Sections 85–89), Oudh Act, Sections 52-55, the Revenue Rules, and the Board's Revenue *Circulars*, Part I, pp. 34 *et seq.* (Oudh, Part I, *Cir.* 1, 2, 3), must be consulted. It would exceed the limits of the work to give them in the text. Half-yearly returns of 'lapses' are usually required. Sometimes, when such grants are held by several sharers, local rules have to be applied as to whether the *share* lapses to Government or the survivors absorb it.

[2] For Rules see *S. B. Cir.* Dep. I, pp. 18–67; Oudh, Part I, *Cir.* 4, 5, 6.

(d). Maintenance of Boundaries.

§ 8. *Legal Provisions for repair of Marks.*

All boundaries had, as we have seen, to be secured for survey and Settlement purposes and proper marks set up. But it is of hardly less importance that these should *continue* in a state of repair.

All boundary disputes[1] are to be decided on the basis of possession, or, by arbitration, with the consent of the parties; and an order may be given to maintain the marks as they are, till the dispute is lawfully adjudicated. Obviously, it is the duty of persons disputing a boundary to go to Court and get the question settled—not in the heat of excitement to try and take the law into their own hands and destroy existing marks.

N.-W.P. Act, secs. 140-5. Oudh Act, secs. 102-7.

The Revenue Acts give power to the Collector to *maintain* boundary-marks. Owners are responsible for their maintenance, and persons erasing or damaging marks may be made to pay for the damage[2].

When the author of the mischief cannot be discovered, the Collector has power to determine who shall pay for the restoration.

(e). The Collection of the Land-Revenue.

§ 9. *The Agricultural Year.*

The 'Agricultural year' spoken of in the sequel is a division of time fixed with reference to the convenience of season for ejecting tenants, commencing new rent-rates, and so forth.

It would be hard that a tenant should be turned out just as he had ploughed or sown his land; it would be equally hard that a tenant should be able to relinquish at such a season that the owner could not have time to make any other arrangement for cultivating the fields. Hence the necessity for fixing the beginning and ending of the year for agricultural purposes.

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[1] We are always now speaking of disputes arising *after* the Revenue Settlement is over.

[2] Irrespective, of course, of any criminal penalty that they may have incurred under the Indian Penal Code, Section 434, &c.

In the North-Western Provinces and Oudh, the agricultural year begins on the 1st July and ends on the 30th June[1].

§ 10. *Payment of the Revenue.*

The land-revenue is made payable, not in one lump sum for the whole year, but in certain instalments ('qist') arranged in such a way as to call in the money at times easiest to the agriculturist, which, speaking generally, is some time after the principal crops have been reaped and sold and rents got in.

The dates of the instalments have to be carefully considered. They were the subject of correspondence with the Government of India in 1881–82. As this has been noticed in the general account of Revenue Administration (Vol. I, Ch. V), it will only be necessary here to repeat that the principle stated by the Famine Commissioners is generally accepted everywhere[2]. 'Instalments,' they said, 'should correspond to the number of the main crops raised in each year, to the average dates when those crops come to maturity, and to the relative weight and value of the harvests.' And they go on to say that when one crop is retained for food and another sold, the larger instalment should be fixed after the latter is sold: also that time must be allowed for the sale of the harvest, and not hurry the cultivator to cut imperfectly-ripened crops, or sell hastily in an overstocked market. They further call attention to the necessity for allowing landlords to get in their rents from tenants.

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[1] See Land-Revenue Act, Sec. 2 (Definitions) (Do., Oudh). Also the Rent Act, North-Western Provinces, Secs. 19, 31; and Oudh, Secs. 44, 55. This year has nothing to do with the 'Fasli' date — a native method of reckoning the year for revenue purposes, invented by Akbar, and still used among the native subordinates and in their records. I am unaware of any advantage in keeping up the use of it.

[2] See *Letter of Government of India*, No. 1-68, dated 27th January, 1881; and remarks in the *Famine Commissioners' Report*, chap. III, Sec. 292; and *Government of India Resolution*, 15 R., dated 3rd May, 1882.

These requirements would point not only to fixing dates of payment for whole provinces, but to considering the needs of districts and even of particular estates.

In the North-Western Provinces the instalments for the autumn (*kharíf*) harvest, which is a harvest of *food* grains, have been fixed at smaller amounts than those of the *rabí* (spring) harvest, which is a harvest of grains *sent to market*. In the former case, cash does not come into the cultivator's hands so much as in the latter. Not only so, but as the proprietors are much dependent on the receipt of rents from their tenantry, instalments of revenue have also to be fixed with reference to rent payments.

In all the Settlements, dates of rent payment have been carefully fixed, and the Government has accordingly issued definite rules for payment of revenue instalments[1].

N.-W.P. Act, sec. 147, Oudh Act, sec. 109.

The payments are made through the village headmen into the tahsíl treasuries. The tahsíldár keeps up his 'kistbandi,' or return, showing when the instalments are due; and there are additional accounts showing the total demand, payment balances, recoveries of past arrears, &c.

§ 11. *Recovery of Arrears.*

The Acts provide a special procedure for recovery of land-revenue when not voluntarily paid on its falling due. A sum not paid at the proper time and place, is *in arrear*, and the person failing to pay is a *defaulter*[2].

N.-W.P. Act, sec. 148. Oudh Act, sec. 111.

I may here remark that the Revenue manuals are usually full of cautions as to the exercise of powers for the recovery of revenue; nor is this unnecessary. Why does not a man pay? Either because he *will not*,—i.e. he is negligent, careless, ought to be able to pay, &c.; or he *cannot*: famine, drought, or some other calamity has disabled him, or his assessment is really too heavy. Native officers are prone to attribute the failure to 'sharárat wa nadahindagí' (wicked contumacy and refusal). But the Collector must discriminate. If there is reason to suppose that there is misfortune rather than fault, he can *suspend* the demand, and ultimately recommend it for *remission* under the rules in force on these subjects.

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[1] The North-Western Provinces rules are to be found in *Board's Circular*; Dep. III, p. 9; Oudh rules in vol. i. Part III, *Cir* 2.

The *revenue* instalments are payable twenty-one days later than *rent* instalments. These latter are generally timed, two for the autumn (because there are 'early' and 'late' kharif crops), and one for the spring harvest; and a special instalment may be fixed for sugarcane or other exceptional crop.

[2] Both the sharer and the lambardár who represented him at Settlement become defaulters.

N.-W.P. Act, sec. 148. Oudh Act, sec. 111.

Interest is not demanded on arrears of revenue.

§ 12. *When the Arrear is disputed.*

The Land-Revenue Act recognizes that a certificate of the tahsíldár is sufficient evidence of the arrear being due. But a person can pay 'under protest,' and then is allowed to bring a civil suit on the subject.

N.-W.P. Act, secs. 149-89. Oudh Act, secs. 113-156.

But, supposing that *legal process* has to be resorted to, a series of remedies is provided.

§ 13. *Processes of Recovery.*

The procedure is sufficiently described in the 150th section of the North-Western Provinces Land Revenue Act, which is as follows:—

'An arrear of revenue may be recovered by the following processes:—

'(*a*) by serving a writ of demand (*dastak*) on any of the defaulters;

'(*b*) by arrest and detention of his person;

'(*c*) by distress and sale of his moveable property;

'(*d*) by attachment of the share, or pattí, or mahál in respect of which the arrear is due;

'(*e*) by transfer of such share or pattí to a solvent co-sharer in the mahál;

'(*f*) by annulment of the Settlement of such pattí or of the whole mahál;

'(*g*) by sale of such pattí or of the whole mahál;

'(*h*) by sale of other immoveable property of the defaulter.'

Under the first process, simple detention may last for fifteen days if the arrear (with costs) is not sooner paid. N.-W.P. Act, sec. 152.

Whether arrest has taken place or not, *moveable* property (excepting implements of husbandry and cattle or tools of an artizan) may be sold. Sec. 153.

In addition to, or instead of, this process, the estate or share in it may be attached and managed by a Government agent; or the Collector may *transfer* the defaulting estate or the defaulting share (or pattí) for a term not exceeding fifteen years, to a solvent co-sharer, or to the body of the co-sharers. Sec. 157.

Another remedy is to annul the Settlement and take the estate under direct management, or farm it out. In this case, as also in the milder process of management without annulling the Settlement just alluded to, a proclamation is made, and no one can pay rent or any other due on account of the estate to the defaulter, but to the Collector; if he pays otherwise, he gets no credit for it [1]. If a part of an estate Sec. 161. only is affected by an order of annulment of Settlement, the joint responsibility is dissolved as between such part of the estate and the rest.

If the Collector thinks that these processes are not sufficient to recover the arrears, he may, in addition to (i. e. after trying them), or instead of all or any of them, sell, subject to the Board's sanction, the *pattí* or the estate by auction; the sale must be for arrears that had accrued before, and not during, the time of its being held under management as one of the processes for recovery of arrears. The land is sold free of all incumbrances, except certain specified ones, for which the Act may be consulted. Sec. 167.

Last of all, if the arrear cannot be recovered, immoveable property *other* than that on which the arrear accrued, may be sold, but sold *with* its incumbrances [2]. The procedure Sec. 168.

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[1] The annulment of Settlement is applied when other processes are not sufficient, and requires special sanction.

[2] The reason is, that when the land is sold for its own revenue, the incumbrance on it is created with a knowledge that the land is already hypothecated for the revenue. It is not so with *other* lands or houses sold to pay the revenue debt.

for conducting sales is given in full in the Act. The procedure in OUDH is practically the same (Act, Sections 108–135). Persons exempt from personal appearance in à Civil Court, Taluqdárs and female proprietors, are not liable to arrest and imprisonment.

It may be useful to add that these methods of recovery are generally made applicable by special laws (e. g. Forest and Excise) to the recovery of any public revenue.

§ 14. *Recovery of Arrears under a Sub-Settlement.*

Oudh Act, sec. 109 et seq.

When the inferior proprietor is responsible under a sub-Settlement with Government for the revenue, the Oudh Act regards the revenue as recoverable, just in the same way as it is under a Settlement. The lambardárs pay up the revenue of the sharers whom they represent, in the first instance, and consequently need to be armed with powers of recovering revenue payments from the individuals on whose behalf they have paid. In the North-Western Provinces, where cases of double tenure are only occasional, the superior proprietor recovers from the inferior by a suit. In Oudh, where so many estates have the double tenure, and where some more ready arrangement for recovery of money due under sub-Settlement, or due from an inferior proprietor not holding a sub-Settlement, is necessary, the Act provides for recovery of arrears without a suit, and the term 'proprietor' is extended in many cases accordingly, to suit this provision.

§ 15. *Remissions and Suspensions of Revenue.*

The law expects that the revenue (which it has provided to be justly and not oppressively assessed) should be paid with punctuality; and it therefore supplies a powerful compulsory machinery to control recovery, regard being had to the embarrassment of the entire machinery of Government if the revenues are not paid with regularity. Nevertheless, there are occasions of calamity which call for a *suspension*, and perhaps *ultimate remission*, of the demand. It is constantly laid down in the books that the revenue demand is calculated with such moderation, as for average seasons, that it can be paid in good years and bad alike, the surplus of one year counterbalancing the deficiency of another. But, while this principle must be enforced to a certain extent[1], it is really more a matter of theory than anything else: the improvident peasantry rarely *do* lay by a surplus of good years; they spend it on marriages, &c., &c., which would otherwise be deferred; at best, they buy silver or gold jewellery. But, even admitting the principle, it is no safeguard against the distress caused by absolute calamity—famine or total failure of rain, or unusual flood.

Having indicated in Vol. I, Chap. V, the course of the inquiries pursued on this subject, I shall here only notice the practical rules which the Government of the North-Western Provinces have promulgated.

The North-Western Provinces Land-Revenue Act says nothing on the subject; the Rent Act provides that whenever the Government remits or suspends the revenue, there may be a corresponding remittance or suspension of tenants' rent. The order is to be made by an officer empowered by Government, and subject to rules made by the Board of Revenue[2]. Act XII of 1881, sec. 23.

The Oudh Rent Act contains a modified provision of this nature—to the effect that when a decree for arrears of rent is made, there may (with the sanction of the Deputy Commissioner) be an allowance made for loss by drought, hail, or other calamity; and, if so, the revenue authorities shall take into consideration any request made by the landlord for a remission of revenue, 'if the rent-remission has caused a material diminution' in his estate assets. Act XXII of 1886, sec. 19.

Rules for the remission and suspension of revenue are to be found in the Board's *Circular*, Dep. II, No. 43 (October 1885[1]), and in Oudh in *Rev. Cir.*, Vol. II, Part II, No. 37, which is very similar.

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[1] 'Though the Government of India cannot in all cases expect the cultivators to lay by the surplus of good years in order to meet the deficiencies of bad years, it claims that the suspensions allowed in bad seasons should, as a rule, be made good from the surplus of future good harvests.' See *Circular Resolution* 58 R., 12th October, 1882.

[2] Rules on the subject are appended to the *Circulars* afterwards referred to.

The principle aimed at is to give relief in case of 'physical calamity' (as defined in the orders), so that the revenue-payer *should not be compelled to get into serious debt in order to meet his revenue-obligations.* Calamities are naturally divided into two classes: (A) those which are widespread, like drought and famine, and extend over large areas; and (B) those purely local, the result of locusts, hailstorms, &c.

'Suspension' is granted on a written order (briefly recording reasons) by the Collector—if for six months, on his own authority; and the Commissioner may (subject to control of the Board) extend this for a total of eighteen months, or one year beyond the Collector's six months. Suspension is useful where there is reason to suppose that a subsequent good harvest will enable the suspended demand to be made good, or where a payer is in temporary need of aid, so as not to get into serious debt with money-lenders, or where a period of observation is necessary before applying for actual 'remission' of the demand in whole or part.

In a widespread calamity, the recommendation for postponement may be in excess of what has been stated, and it should then be *formal*, and submitted for the Board's and Government sanction, and take the shape of a uniform fraction or proportion of the revenue over the tract.

If the calamity is so serious that *remission* is required, the case must be fully and definitely reported for orders of the Board and the Government.

In such cases it will be necessary to assist the tenants also under Section 23 of the Rent Act, and to do this it will be needed to propose a suspension of revenue formally to Government, and then the *rules under Section* 23, which are appended to the *Circular Orders* under notice, can be acted on.

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[1] Superseding *Circulars* 9 and 10 in Dep. II.

(*f*). **Rent Cases.**

§ 16. *Exclusion of the Civil Jurisdiction (North-Western Provinces and Oudh).*

A large number of the cases for Revenue Courts belong to the category of Rent-cases, or matters between landlord and tenant, or between a village headman and the co-sharers for revenue dues or village charges, or between revenue assignees and the revenue-payers. For the North-Western Provinces, these are specified in Act XII of 1881; and the jurisdiction of Civil Courts is excluded absolutely as to matters enumerated in Section 95, and, in the first instance, as regards the suits for rent or revenue mentioned in Section 93, in which there is an eventual *appeal* to the Civil Court. In Oudh, Act XXII of 1886 excludes, generally, the jurisdiction of the Civil Court, but gives the final appeal to the Judicial Commissioner, which is a peculiarity to be noted. Secs. 93-5. Sec. 108.

The student will do well to turn at once to the North-Western Provinces Rent Act, and see what matters are the subject of a revenue *suit*, followed by a *decree* and execution thereof, and what are the subject of an *application* and an order thereon. In the Oudh Act there is no such distinction made; all the matters judicially dealt with under the Oudh Act are called suits under heads—(A) by the landlord, (B) by the tenant or under-proprietor, (C) regarding division or apportionment of produce, (D) by or against headmen (lambardárs), co-sharers, and mu'áfídárs (revenue-free holders). The Act only mentions certain applications specially. Secs. 93-5. Sec. 120.

§ 17. *Suits.*

In the North-Western Provinces, *suits* are generally for arrears of rent or arrears of revenue by a lambardár who has paid up to the treasury on behalf of the co-sharers, or for arrears of revenue due to a 'revenue assignee' who collects his own dues. They may be also for recovery of overpayments of rent, for compensation in certain cases, to eject tenants in certain cases, and to contest distraint proceedings.

§ 18. *Applications.*

Applications are for the production of accounts relating to village management; for determination of the nature and class of a tenant's tenure under Section 10 of the Act; to resume rent-free lands which the proprietors consider should no longer be rent-free, owing to various causes; to eject tenants; to determine the value of ungathered crops, or the rent to be paid for a temporary holding until crops are ripe and reaped; to determine the amount due as compensation for improvements; for enhancement or determination of rent, or abatement of rent; for issue of a lease or counterpart.

§ 19. *Further details (North-Western Provinces).*

These paragraphs will give an *idea of the nature* of the Revenue Courts' business under the Rent Act.

It will be observed that second-class Assistants, who can give no *decision* under the Land-Revenue Act, have certain powers under the Rent Act, both as regards *suits* and *applications.*

Act XII of 1881, sec. 93.

In the case of *suits,* all second-class Assistants' decisions are appealable to the Collector.

All Collectors' (original or appellate) and first-class Assistants' decisions are final, unless—

(*a*) The amount or value of subject-matter exceeds R. 100;

(*b*) the case is one on which 'the rent payable by the tenant has been a matter in issue and has been determined.'

In these cases there is an appeal to the Civil Court (District Judge[1]), or, in large cases (exceeding R. 5000), to the High Court direct. This provision is peculiar, and is therefore noticed; it forms a sort of compromise or intermediate measure between absolutely making over 'rent suits' (and cognate cases) to the Revenue Courts (as in the Panjáb and other Provinces), and absolutely making them over to the Civil Courts, as in Bengal.

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[1] The District Judge's order will (as in ordinary civil suits) be open to a final 'special appeal' (on a point of law only) to the High Court (Rent Act, Section 191).

In the case of orders on applications, *all* orders of second-class Assistants are appealable to the Collector. Orders of Collectors and Assistants of the first class, in the exercise of powers under Section 98, are final. Collector's orders in the exercise of powers under Sections 99 and 100 are appealable to the Commissioner, and other orders to the Collector. Sec. 95.

Commissioners' orders are ordinarily final, but orders on appeal in cases coming under Sections 99 and 100, if they alter the original order, are appealable finally to the Board. Sec. 198.

The Board has a general power of calling for any case and passing orders on it. Sec. 199.

§ 20. *Oudh Jurisdiction.*

In OUDH, also, the second-class Assistant, who is not empowered under the Revenue Act to decide any case, but only to investigate and report, is, under the Rent Act, empowered to decide cases under certain heads, and not exceeding in value R. 100. The first-class Assistant tries all kinds of suits under the Act, up to R. 5000 in value, and the Collector (who is the Deputy Commissioner) may hear all suits without limit. (For the restriction on appeals, see Section 119.) Act XXII of 1886, sec. 113.

CHAPTER V.

ON CERTAIN SPECIAL DISTRICTS IN THE NORTH-WESTERN PROVINCES.

The Scheduled districts, which have some distinctive features in their revenue-management, or in their land-tenures, or both, and which, therefore, require a separate notice, are—(1) Kumáon, (2) Jáonsar-Báwar, (3) the Tarái District, (4) South Mirzapur.

Section I.—South Mirzapur.

The 'scheduled' portion of Mirzapur requires a very short notice, so I may take it first[1].

The notifications declaring this a scheduled district were issued by the Government of India, No. 636, dated the 30th May, 1879, *Gazette of India*, Part I, page 383; and the *Local Government Gazette*, 7th June, 1879, page 975.

The Civil Procedure Code is in force, but there is a special organization of Courts; the Commissioner being the Court of final appeal[2].

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[1] The tracts consist of:—
- (*a*) The *tappas* (small subdivisions of parganas) called Agori and South Kon in the Agori pargana.
- (*b*) The Singrauli tappa in pargana Singrauli.
- (*c*) The tappas of PhulwáDudhi and Barhá in the pargana Bichipár. (*The Dudhi Estate Revenue Rules* will be found in the Legislative Department's *North-Western Provinces Code*, (1886), p. 657.)
- (*d*) The portion of the district south of the Khaimúr hill range. (See Part IV of the *North-Western Provinces Code*, 1886.)

[2] See Rules for the *Administration of Civil Justice, North-Western Provinces Code*, p. 655.

In revenue cases, there is power (exercisable by the Local Government) to refer to the Board of Revenue, when the Commissioner reverses the decision of the Collector.

The land-revenue rules are special; not under Act XIX of 1873. The Settlement is made for ten years.

The system of joint-village Settlement was not applicable, for the villages are hardly entitled to the name, being groups of independent cultivators, under the management of a Government headman[1]. Cultivation is only permanent on some lands and intermittent on others. Rights are therefore recognized chiefly with reference to the permanent fields.

In a few villages, indeed, in the mahâls of Gonda-Bajia and Hírachak (of the pargana Bíchipár, known as the Dudhi Government Estate), the sipurd-dár was recognized as the proprietor; so these became zamíndárí villages, and as regards them the ordinary revenue-law is in force. But, in the other villages, the proprietary right is held to vest in Government, and the actual holder of land is said in the rules, to have a heritable, but not transferable 'proprietary' right in—

(*a*) His house, premises, or site in the village;

(*b*) his fields, which are or can be permanently cultivated;

(*c*) any grove or garden which he planted by permission of the Collector or officer in local charge. Trees in such groves may be sold or mortgaged.

A right of occupancy is, however, recognized in favour of any one who has held permanently-cultivated land for three years. Every such occupant receives a patta, or written document showing the terms of holding, and containing a clause which allows him to increase his cultivated holding by breaking up a certain area of available waste. He maintains his right so long as he makes regular payment of rent. If he was already on the land at Settlement, the rent is the Settlement rate of assessment; if he entered afterwards, it is what he has agreed to pay.

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[1] The headman (where not 'proprietor') is spoken of as the 'Government agent,' or sipurd-dár (corruptly or dialectically written *sapurdar*). Some of these were allowed to be hereditary: others not.

Other lands not occupied on these terms, are held as simple tenancies-at-will, held under the State as direct proprietor.

The sipurd-dár 'is bound to realize and pay' the rents into the Treasury; he is allowed a deduction for the rent of the 'sír,' or land of which he is himself the occupant, and from 20 to 30 per cent. on the collection, as a remuneration for his risk and trouble.

He can locate cultivators on the waste, but he is bound to make allowance for the amount of waste that is attached to each occupant's 'patta,' as above stated. He cannot, of course, eject 'occupants,' but he can change the 'tenants,' on lands not held by occupants, under certain conditions.

The rents are recoverable by 'dastak,' or writ of demand, or by attachment of property; and, if this fails, the Collector may order sale of the property. In the last resort, a defaulting occupant may be ejected from his holding.

A Government 'sazáwal' supervises the sipurd-dárs in the ordinary or non-proprietary villages. Where the sipurd-dár is recognized as proprietor of the village, the sazáwal becomes the tahsíldár.

SECTION II.—KUMÁON AND GARHWÁL.

§ 1. *The Administration.*

The criminal law and procedure are, generally, the same as elsewhere, but the 'Rules for the Administration of Justice,' issued under Section 6 of the Scheduled Districts Act, 1874, determine the powers of Courts and Magistrates, the Commissioner being the *Court of Session*, the Senior Assistant being the *Magistrate of the District*.

The Civil Courts are also governed, as regards procedure, by the same Rules [1]. But there is little regarding the substantive law that is exceptional.

Parts of the Revenue Act relating to the Settlements and to the recovery of arrears of revenue are in force, but not the Rent Act. The Revenue Officers sit as Revenue Courts —'Summary and Regular'—just the same as in the Tarái.

A number of other Acts have been extended to, and are declared in force in, the district, by notification.

The Senior Assistant is the Collector, and the Junior and Extra Assistants are the Assistant Collectors [2]. The tahsildárs have powers as elsewhere.

§ 2. *The Settlement.*

The last Settlement was begun in 1863. Dealing with a country consisting of mountains and deep valleys, the procedure of survey was different from what it would be in a plain district.

Cultivation of a permanent character is confined to the valleys where some alluvial soil has accumulated, and to such of the hill-sides as have good enough soil to make it worth while to terrace them. There is also some casual cultivation (ijrán)—that is, land that is broken up and cultivated only for a time; when the soil is exhausted, the plot is abandoned. The survey-maps, therefore, show the villages, and not the intervening waste [3]. There was no general demarcation of village boundaries (for this was unnecessary under such circumstances); but boundaries were determined (1) when disputed, (2) when adjoining Government forest, or (3) when the area was adjusted by cutting off an excessive amount of waste. In this operation there was nothing previously on record to help the Settlement Officer. At the early Settlements there had been no measurement. In 1823 a 'guess measurement' had been made, and a *description* of the boundaries recorded; and, at the next Settlement, of 1846 also, no measurement had been made, but a 'fard-phánt,' a sort of list of owners, tenants, and rents, was made out, showing holdings: that was all.

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[1] See *North-Western Provinces Code*, p. 501. But the portions of the *Civil Procedure Code* not touching the Rules are in force (Notification, *North-Western Provinces*, No. 506 A., 5th December, 1876).

[2] Rules, chap. III. 1; *North-Western Provinces Code*, p. 645.

[3] *Board's Review of the Kumaon S. R.*

Only at the last Settlement was a survey made. The measurements of the khasra survey were recorded in 'vísís,' of 4800 square yards (forty square yards less than an acre).

§ 3. *Right to Waste Land.*

Allusion must here be made to the waste, as included in village boundaries[1]. It would appear that in many cases the jungle or grazing land was, in Mr. Traill's early Settlement, included in the nominal boundaries of villages—that is, it was known by the same name; but it does not follow that it belonged, in any proprietary sense, to the village.

General Sir H. Ramsay quotes with approval[2] a passage from Mr. Batten's *Garhwál Report*, in which he says: 'I take this opportunity of asserting that the right of Government to use forest and waste lands not included in the assessable area of the estate, remains utterly unaffected by the inclusion of certain tracts within the boundaries of mauzas.' No one has a right, merely on the ground of such inclusion, to demand payment for grazing or wood-cutting from other villages. Nor does such inclusion of itself interfere with the Government right to offer clearing-leases in such waste. Mr. Batten thought, however, that the inhabitants of the village should[3] have the first refusal of such leases, and that grants should not be made so as to bring them up too close to the village (i.e. that a space for grazing and wood-cutting should be left).

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[1] Some misunderstanding may arise in the original Report from the fact that in some of the statements 'waste' is used to mean simply *fallow* land. I speak here of *waste* or *jungle* land.

[2] *S. R.*, p. 24. The reader who remembers how the original organization of small Hindu states dealt with the waste, and how those ancient institutions survive in the hills, will be disposed to think that this extract is evidently, in theory at any rate, correct. Private right did not arise except on the ground of clearing and possessing the soil; and there are no communities or grantees to claim the lordship over an entire area of land, waste and tilled together.

[3] Clearly as a matter of convenience and policy.

General Ramsay's own account slightly differs from this. While admitting the Government right[1], he says that the villages have a prescriptive right to grass, grazing, timber, and firewood, and even to grazing dues from outsiders who feed their cattle in the grazing lands within the village boundaries. All that the landowners can claim outside their cultivation, is a fair amount of culturable waste, with a sufficient amount of waste for grazing and wood-cutting.

In paragraph 48, again, he says that the people 'owned their jungle in a way' before we came; and so when we recognized their proprietary right in the cultivated land, the people acquired a '*certain right to the use of the forest*[2].'

§ 4. *Revenue Assessment.*

The revenue assessment was made on a principle which it is not easy to understand; it was arrived at by calculations made on the basis of certain rates for average land, and modifying the results for each village by consideration of the abundance or paucity of population, which made cultivation easier or more difficult. It is not necessary for the purposes of this book that the process should be detailed.

§ 5. *Rights in Land.*

The record of rights, again, was a matter of some difficulty.

Under the Gorkhá Government the Rájá (being a conqueror) claimed, as usual, to be the general landowner; and he made grants of land, and not unfrequently put grantees on already occupied lands, nominally that they might realize the State share, though in practice they took much more, and behaved as if they were landlords in our sense of the term. Villages were given to astrologers, cooks, barbers, and physicians; and the people in possession, whatever they once were, soon came to be looked on as the tenants of the new grantees[1].

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[1] *Report*, Section 40.

[2] I make no comment on this; I simply note the statements as they are, leaving it to be gathered by a true interpretation of the facts, what the real claim of the villagers on the waste amounts to. It is, however, certain that under the old Hindu constitution of society, while no landholder claimed a heritable right in any soil beyond his own holding, rights of user, or what were practically such, existed, to grazing and wood-cutting in the neighbouring waste.

The headman of a village was the 'pradhán,' and over several villages was a 'thokdár' or 'siyána,' who managed police matters and collected the revenue.

At first the British authorities took their revenue in the same way; but later Mr. Traill (the then Commissioner) made a Settlement which is described as 'mauzawár,' or by villages; and this was understood to give the proprietary right to those who appeared in the superior position, either from being grantees of the Gorkhás or as original occupants who had not been interfered with by such grants. The people, as might be expected, had a customary distinction of rights of their own; and names distinguishing what we may call proprietorship and tenancy are locally known. As the country grew in wealth, these distinctions were acted on and revived by the more advanced; and when Mr. Batten made a twenty years' Settlement in 1846, he found the people very ready to claim the superior position on their own account; he, however, left every one to get a decree of the Revenue Court defining the position he was to occupy in one class or another. When the present Settlement began, every one wished to be recorded proprietor[2].

The actual state of landed tenures in Kumáon is, as might be expected, much more approximate to the old Hindu custom: there are no village landlords (apart from the claims of Gorkhá grantees). It is not surprising that, in 1846, Mr. Batten, influenced by the system under which he had been trained, made use of terms which belong only to the North-Western Provinces villages, and are stereotyped in the *Directions*; but the Commissioner[1] confirms the fact (which might have been otherwise expected) that there is no such thing really as a 'zamíndárí' tenure—i. e. where one individual or a joint-body is landlord of the whole village estate.

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[1] Board of Revenue's *Review of the S. R.*, par. 22. [2] *Report*, par. 25, p. 14.

All cultivators are really equally proprietors of their several holdings; but there were cases where a grantee had been, as above remarked, constituted proprietor over the heads of the original cultivators; there were other cases, also, where an energetic pradhán or a 'thokdár' had succeeded in acquiring a sort of superiority over the cultivators: in some cases he would have had a real ground for his claim, having been the leader and the first to commence the work of clearing and cultivation. In such cases these persons *were recorded as the owners*, and the original cultivators (who would otherwise have been proprietors) then, as in so many other Settlements, fell into the position of 'kháikárs,' or permanent-tenants, with privileges, however, little inferior to those of owners.

§ 6. *Landlord and Tenant.*

The right in land is called 'thhát,' and the proprietors 'thhátwán': the term 'zamíndár' has no meaning, except its literal one—'any one connected with land'[2].

The superior or landlord right recognized, as just now described, in favour of the Gorkhá grantees and others, does not affect a very large proportion of the villages. In many—I believe in the large majority of cases—the small proprietors cultivating their own lands have retained their position as owners. Where the existence of the superior title caused the cultivators to be recorded as 'kháikár,' the chief, if not the only, difference is this—the latter does not possess the right of transfer, and has to pay a fixed sum as 'málikána' to the proprietor; this 'málikána' being the result of converting various cesses and perquisites levied under the former system, into a fixed cash payment[1].

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[1] *Report*, p. 15

[2] Atkinson's *Kumáon Gazetteer*, § 33. Mr. Atkinson also says that the paramount property in the soil was vested in the State, and that the landholder's right, though heritable and transferable, has never been held to be indefeasible. Under an arbitrary Government no right is *indefeasible*; but the occupier of lands was *practically* an owner and was never ejected.

The kháikár (tenants) also have headmen (in their 'stratum' of right) called 'ghar-pradhán'; and when the landlord is non-resident, the 'ghar-pradháns' manage the village[2].

The kháikárs thus form a class of 'occupancy-tenants' on a natural tenure, and no others are known. No Rent Act has ever been in force; hence there is no artificial or legal tenant-right based on holding for a period of years.

Labourers called in to help are 'sirthán'; they are only tenants-at-will: it may happen that a kháikár of one village will cultivate land in another village as a 'sirthán.'

Lands assigned to temples are spoken of as 'gúnth.'

The headmen are remunerated much as elsewhere, having a certain privileged 'sír' holding, and a percentage of 5 per cent. for collecting the revenue.

§ 7. *Official Organization.*

The local subdivision of Kumáon for revenue purposes is into tahsíls and parganas; the latter being again subdivided into a number of 'pattás.'

The superior headmen or thokdárs, or siyánas, have now been allowed a small cash percentage[3]; but they used to get certain perquisites, and perhaps a bit of land, fees being paid them on the occasion of a marriage in the village. They had also, as a perquisite, one leg of every goat killed by the village headmen.

The Gorkhás used to employ an official over a pargana, called a 'daftrí,' who was like our kánúngo, and had to supervise the headmen in his pargana.

The office of 'kánúngo' has now been revived by the name, and there are now some five of those officials who superintend the patwárís.

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[1] *S. R.*, § 28.

[2] *Id.*, § 26.

[3] *Id.*, § 39.

The patwárí of Kumáon differs greatly from the official called by the same name in the regulation districts. In Kumáon he is a provincial agent charged with multifarious duties, over a considerable area of country, and independent of the villages, being responsible to Government, who appointed him[1]. He has to measure land, execute Revenue Court decrees, repair district roads, find supplies for travellers, and keep the District Officer informed of what goes on.

There is no chaukidár system, and no regular police (except at the stations of Náini Tál, &c.). The 'rural police' (though not organized under the Police Department) are the 'pradháns' of villages, who are bound to apprehend criminals in serious cases and to report crime to the patwárí. The head 'thokdárs' keep a certain watch over the pradháns, and the small jealousies and local animosities that exist prevent too much collusion, and cause it soon to be known if this duty is neglected; the system practically works well[2].

The Revenue Act is so far in force that in case arrears of revenue have to be recovered, Chapter V is applicable.

Rent is recovered by 'summary suit' under the 'Rules.'

No partition law is in force, and only imperfect partition, guided by the spirit of the ordinary law, is allowed.

SECTION III.—THE TARÁI.

The Tarái district (included in the Kumáon Commissionership) is a scheduled district under Act XIV of 1874. It had originally been under the Regulations, but they were found unsuited to it. The Administration indeed fairly broke down; the police failed, and the Settlement was found to be oppressive. An Act was passed in 1861 to remove the district from the jurisdiction of the ordinary Courts, without, however, affecting the substantive law[3].

This need not, however, be further alluded to, as the district is now provided for by a Regulation (IV of 1876) under the 33 Vict., cap. 3, and notifications have been issued showing the other laws in force and the Acts extended[1].

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[1] Whalley's *Extra Regulation Law* (1870), note 1, p. 39; and *Report*, par. 36.

[2] *S. R.*, § 37.

[3] Whalley's *Extra Regulation Law*, p. 149.

The Penal Code and Criminal Procedure Code are in force, also the Contract Law, Stamp Law, Forest Act, &c.

The civil procedure and the limitation law are provided by the Regulation, and pleaders are not admitted into Court. The Revenue Court procedure is also under the Regulation, and the Rent Act does not apply. The Land-Revenue Act has been extended to the settled tracts[2].

The Settlement was revised many years ago under the same procedure as that of the rest of the province. Only a portion of the district, however, is cultivated, and the greater portion of it[3] is consequently owned by Government, the cultivators being tenants.

In the estates owned by sole or joint proprietors, suits for ejectment are scarcely known[4], but are provided for by the Regulation. Arrears of revenue in these estates can be recovered under the ordinary revenue law. Suits for land are heard as regular revenue suits, and rent and other claims (filed within twelve months) are heard as summary suits.

There are tahsíldárs but no kánúngos, and the patwárís have large circles like those in Kumáon. They are Government servants.

Reg. IV of 1876, §§ 1-42.

The administration is carried on by a Superintendent aided by an Assistant-Superintendent. A special appeal lies to the Commissioner of Kumáon.

In revenue suits there is a limited power of appeal to the Board of Revenue.

SECTION IV.—JÁONSAR-BÁWAR.

The Jáonsar-Báwar pargana of the Dehra Dún district has never been under the Regulations. Although an Act of 1864 (since repealed and superseded by the Scheduled Districts Act) dealt with it, it merely recognized this extra-regulation position, and did not create it.

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[1] *North-Western Provinces Code*, pp. 521-539.

[2] Notification of 22nd September, 1876, No. 1555, *Gazette of India*.

[3] Five out of the six parganas (Whalley, p. 150).

[4] Whalley, p. 150.

Local customs are ascertained in this tract by a 'dastúr-ul-'aml' (or rule of custom), which was drawn up in 1851; it was revised at a later Settlement by Mr. Robertson, and signed in token of acknowledgment by the headmen[1]. This 'Code' could hardly be enforced as law, but it would be no doubt usefully referred to as an authoritative exposition of custom[2].

The revenue-system is extremely simple. A headman called 'siyána' is settled with for a fixed sum for a 'khat,' or group of lands. He prepares an annual 'phánt-bandi,' or revenue-roll, showing how every landholder is to pay his proportion of the whole.

The Superintendent has to check the action of the siyána, and see that the rent is fairly distributed, and that one is not favoured and another oppressed. This plan was, however, objected to in many quarters, and was only maintained (on sanctioning the Settlement) on the ground that it would be inconvenient to revise what had been done. At a future Settlement it will probably be altered[3].

There was a rough survey and field measurement.

The chief difficulty was in connection with the 'rights' claimed in the adjacent forests. The villagers only possessed their cultivated land, and could not even break up culturable waste without the permission of the district authorities[4]. But 'they were allowed to use the forest in a general way,' taking wood for their own use, but selling none.

There was, naturally, little practical restraint or control, till the forest rules began to be enforced, and then complaints were made. It was accordingly determined to make over certain forest tracts altogether to the villagers, and to define the Government forests, specifying what rights might be exercised in the Government forest. This is all laid down in the wájib-ul-'arz of the khat or estate.

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[1] Whalley, p. 197.

[2] The dastúr-ul-'aml is printed at p. 203 of Mr. Whalley's work.

[3] The last Settlement was partially carried out by Mr. Cornwall and completed by Mr. Ross (1873-75). The Settlement expired in 1884.

[4] *S. R.*, 1875, § 22.

As regards local revenue officials, the organization is very simple.

There are a number of patwárís who keep up 'patwárís' papers,' as in other places, only in a more simple form.

The 'siyánas,' or headmen, are responsible for police, but there is no crime in the pargana.

As regards the law of Jáonsar-Báwar generally, the Scheduled Districts Act was applied to it by Notification (Home Department) No. 632, dated 30th May, 1879. A notification of the same date (No. 633) extended the Civil Procedure Code. The Notification No. 634 gives a list of all the Acts in force, which includes all the chief general Acts on prominent subjects up to 1871[1].

The criminal law and procedure and the forest law are in force. But the Courts are constituted, with civil, criminal, and revenue powers, by Rules given at page 662 of the *North-Western Provinces Code.*

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[1] After 1874, of course, all Acts state whether they apply to scheduled districts or not: so the notifications declaring the law under the Act need only deal with Acts of a previous date.

PART II.—AJMER-MERWÁRA.

CHAPTER I.—THE HISTORY OF THE PROVINCE.
" II.—TENURE OF LAND.
" III.—THE BRITISH LAND SYSTEM.
" IV.—THE ADMINISTRATION AND LAND-REVENUE SYSTEM

CHAPTER I.

THE HISTORY OF THE PROVINCE.

§ 1. *Ajmer*[1].

THE province of Ajmer, together with the Merwára parganas, was ceded to the British Government in 1818. Ajmer was a settled country; but the parganas of Merwára consisted mostly of a stretch of jungle-clad hills, in which a few rude tribesmen lived by marauding and cattle-lifting, and hardly possessed anything like a system of customary landholding. From this life the Mers were reclaimed under British rule.

Ajmer is specially interesting to us, because it is the one British district in Rájputána; and it still preserves for us the features of the Rájput organization as it appeared when the Rájputs came, not as a tribe immigrating in sufficient numbers to people the land, but as a small force furnishing rulers with their subordinate nobles and their armies, and establishing a general system of government and polity, characteristic of the race.

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[1] The name may correctly be written Ajmír or Ajmer; but the latter seems the truer local form.

For an account of the Rájput organization, which has so largely affected the land-tenures in the North-Western Provinces and Oudh, and in other parts of India, see Vol. I. pp. 120-6 and 250-5. Originally, the Rájput rule was in much greater force, and extended over a larger area than it now occupies; but the great kingdoms of the Ráthors of Kanauj, the Solankhái in Guzarát, and the rest, were reduced by the Muhammadan power[1]. The chiefs were driven from the more open and fertile plains, and the existing Rájput States represent the remains of the dominion. These somewhat inaccessible districts to the north-east and south-west of the Aravalli hills, mark in fact the chief place of retreat of the tribes, and the site where they were able to hold their own to some extent[2], in spite of many subsequent wars, both internecine and with foreign foes.

Ajmer itself, being one of these Rájput states, saw very various fortunes. In the fifteenth century it passed into the hands of the rulers of Málwá. During the first quarter of the sixteenth century, however, the Rájput power revived under Rán´ Sangá of Udaipur, but it again declined as the empire of Húmáyún and Akbar grew and consolidated. Ajmer became a 'Súba' or province of the empire, and the city itself was an imperial residence. But the Rájput customs were not obliterated or even interfered with; for, in those days, it was the policy to encourage the Rájputs: and the chiefs became simply feudatories of the Mughal power. As the Mughal empire waned, war and confusion again formed the order of the day: the Rájput chiefs attempted to combine for their independence, but in the midst of the general warfare the Maráthás appeared on the scene. In 1756 A.D. they got possession of Ajmer, and 'thenceforward Rájputána became involved in the general disorganization of India.' 'Even the Rájput chieftainships, the only ancient political groups left in India, were threatened with imminent obliteration. Their primitive constitution rendered them quite unfit to resist the professional armies of Maráthás and Patháns, and their tribal system was giving way, or at best transforming itself into a disjointed military feudalism.' About this time some of the Ját leaders rose to power and founded the Ját state of Bhartpur, which still survives among the Rájput chiefships.

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[1] The relics of Rájput clan-dominions, some of them on the feudal organization, others without chiefs, are still found in the taluqdáris and joint-villages in North Bombay,' and in the Káthiáwár chiefships. To the Muhammadan dispersion may also be traced some of the Rájput colonies in Kangra and other parts of the Panjáb. We shall hear also of Rájputs in Sindh.

[2] 'We may describe Rájputána as the region within which the pure-blooded Rájput clans have maintained their independence under their own chieftains, and have kept together their primitive societies, ever since their principal dynasties in Northern India were cast down and swept away by the Musalmán irruptions.'—(*Gazetteer of Rájputána*, vol. i. p. 39.)

In 1803 all Rájputána, except the north-west portion, was paying tribute to the Maráthás; but these plunderers never got such hold on the country as in any way to obliterate the old customs of landholding.

At last the British Government interfered, and, after a series of changes in policy, which it is not here necessary to allude to, the Rájput states entered into treaties with the British power. These were all executed by the end of 1818, in which year Ajmer became British territory, it being ceded by Sindhia the Maráthá chief[1]. The Merwára parganas were ceded at the same time, but were so uncivilized that they had still to be reduced to order by force, some few years afterwards.

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[1] 'So early as the end of the twelfth century, the Muhammadans had discovered the great importance as a *point d'appui*, in the middle of the Rájput country, of Ajmer, a city lying at the foot of an almost impregnable hill fort, well watered for those arid tracts, in a situation at once strong, central, and most picturesque. The fort was taken by the Afghán king Shahab-ud-din at the end of the twelfth century. . . . . Since then Ajmer has been lost and won several times; its possession being the symbol of political predominance in Rájputána; for it is a "Castle Dangerous" which no government could hold in the midst of the clans without powerful support and the prestige of military superiority. The Mughal emperor made it an imperial residence in the seventeenth century: in the confusion of the eighteenth century, the Rájputs got it again for a while, but soon had to yield it to the Maráthá chief Sindhia, then at the height of his fortunes. By him it was ceded, with the lands adjoining, to the British in 1818, and thus for six centuries or more, with a few intervals, Ajmer has contained the garrison by which the masters of India have enforced their paramount jurisdiction over the unruly clans of Rájputána.'—(Sir A. Lyall's *Asiatic Studies*, chap. VIII. p. 186).

§ 2. *Merwára.*

While still dealing with a general history of the country, and before going on to speak of the peculiarities of tenure in Ajmer, it will be proper to add that the tahsíls forming the Merwára district, (which was united with Ajmer for administrative purposes), have had a different history, if history it can be called, which does not, in fact, go back to a time long antecedent to our own occupation.

Merwára is a long strip of hill country in the Aravalli range. The greater part of it had been uninhabited jungle for more than a century before the British occupation. The Mers, who occupied the more promising portions, were a mixed race of very uncertain origin,—Gújars, Mínás, and irregularly-descended Rájputs, probably formed at least a portion of the stock[1]. They were recruited by outlaws and refugees from various places. Some of the Mers were Hindus (in a very irregular fashion) and some (called Merats) were Muhammadans (also to a very limited extent); but the difference of faith did not separate the people, who continued to intermarry as before. The Mers lived by plunder, and having their habitations at the tops of inaccessible hills, they came down from these to lift cattle and arrange for forays into the neighbouring territory. Some of them professed a kind of obedience to the neighbouring Thákurs of Udaipur and Jodhpur, but it was only nominal, in the form of an occasional present. Agriculture was almost unknown.

When the country was ceded to the British along with Ajmer, it was found that all efforts of the States of Jodhpur, Méwár, &c., to keep order, failed, and the place was reduced by British arms. Once peace was established, chiefly by the aid of a local battalion recruited from the Mer tribes, the progress made under the paternal administration of Colonel Dixon was astonishing. He built the town of Nayánagar (the present capital), introduced (so it may be truly said) the art of cultivation, establishing wells and terraced fields on the hill-sides; he made tanks and irrigation works, and encouraged settlers in all directions, by locating hamlets and showing the advantages of a settled life. The work, which was really wonderful, is described in the *Sketch of Mairwara* (Merwára), published under the orders of Government in 1850.

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[1] See *Sketch of Mairwara*, by Colonel Dixon, p. 7, where some curious traditions are given. Cunningham (*Ancient Geography*) notes that the Minás were aborigines of Jaipur.

In a district in which the people were gradually won from being mere plunderers to settled life in agricultural villages, it was not to be supposed that any ancient forms of landholding existed; the villages were settlements of clansmen, or friends, and each owned his own fields without any other bond than that which a common habitation, and the necessity for co-operation and mutual support produce[1].

§ 3. *Peculiarity of the Rájput Organization.*

This very brief outline of the history of Ajmer-Merwára is necessary to explain the general position of affairs, and how it is that Ajmer is important for our purposes. From Merwára we shall not expect to find any special features of landholding, for cultivation on terraced fields in the hill-sides was only taken to under the rule of Colonel Hall and Colonel Dixon. But Ajmer introduces us to one of the most ancient forms of landholding of which we have any historical evidence.

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[1] The Agent to the Governor-General thus described Colonel Dixon's work in 1841:—'Much was achieved for the peace and agricultural prosperity of Merwára by Colonel Hall, C.B., and the people have a lively sense of the benefits which they derived from his administration. The high degree of prosperity which it has now attained arises, however, from the system introduced by Captain Dixon. He may be said to live among the people. He knows minutely the condition of each village and almost of its inhabitants individually, is ready to redress, not only every man's grievances, but to assist them to recover from any pecuniary or other difficulty in which they may be involved. It may be supposed that such a system could not be of very extensive application, but from what I have seen here . . . I am satisfied that in unimproved countries, if men of Captain Dixon's energies and disposition could be found, this system of management may be of extensive application. Captain Dixon had no European assistants, but his native establishment was so admirably disciplined and controlled, that, whether in the construction of tanks, in the assessment of the revenue, or the administration of justice among this simple and primitive people, these establishments conduct all matters to almost as happy an issue as he could do himself . . . The system pursued by Captain Dixon . . . is simply to take from all classes alike the money value of one-third share of the produce, to assist them to the utmost extent on the part of Government to obtain water for irrigation, to assist them individually with money or by a remission in the share of produce according to the work to be done, in the accomplishment of all objects acknowledgedly remunerative and useful.'—(*Sketch of Merwara*, 1850, p. 72.)

I have remarked that there was no general settlement of Rájputs as a population filling the entire country. The chiefs with their armies of clansmen alone were Rájput. The bulk of the individual landowners are not Rájputs[1]; there, consequently, had been no growth of village joint communities; indeed, these were quite unknown in Ajmer till introduced by our own North-Western Settlement system.

I once more briefly repeat the outline of the Rájput organization of the country, as regards the ruling classes or chiefs, and as regards the tenures of the actual cultivators of the soil.

The first thing that strikes us is that there is not one sole ruler, but a series of chiefs, who, by the exigencies of the case, are graded in a *quasi*-feudal order and render a certain obedience to the head chief, or Mahárájá, appearing in the field when required, with a force of footsoldiers or horse, as the case might be. Apart from this, the chiefs really regarded themselves as coparceners or sharers with their leader in the kingdom, and retained as much liberty as they could. The Mahárájá was the head of the oldest or most powerful branch of the dominant clan; the chiefs were the heads of the other branches, or of subordinate clans. The system of sharing or dividing the conquered territory into feudatory estates did not extend beyond the main or upper grades of the organization—the heads of the chief branches of the clan. We do not find any further shares or small allotments of land to leaders of troops and so forth, as we do in the more plebeian organization of the Sikh

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[1] The Rájputs now rarely hold land, except as bhúmiyás or as holders of istamrári estates.—(*S. R.*, 1875, § 98.)

'misls' in the cis-Sutlej states of the Panjáb. The Ajmer territory exhibits a division of the whole, first into the royal demesne or khálsa land—the estate of the Mahárájá or leading chief—and then into a series of estates (taluqas) for the Thákurs, Ráos, or other chiefs subordinate to him.

In each of these estates the right of the chief was almost independent; it was subject only to doing homage to the Mahárájá, and paying a 'nazarána' or fee on succession, appearing with the proper military force[1] when called on, and rendering extraordinary money-aids when the necessities of common defence required it. There were also other feudal dues paid in some cases. The estate was liable to sequestration (*zabti*) (if the ruling prince was able to enforce it) as an extreme penalty.

Inside the estates, the tenures of land must be described in separate paragraphs: we have some cases of grant of lands in jágír, some special tenures, and then the ordinary customary landholding of the villagers. But first a few words must be said regarding the revenue.

§ 4. *Land-Revenue.*

The Rájá in his estate, and the chiefs in theirs, took a share in the grain, and some other cesses and local taxes also, from the landholders. As between the chief and their suzerain no land-revenue was paid[2]; a fee or 'nazarána' was paid on succession, and aid was given as required.

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[1] Which is ascertained and laid down for each estate according to custom.—(See *Rájputána Gazetteer*, vol. i. p. 59.)

[2] It is very natural that the Rájput organization should *not contemplate a general land-revenue taken from the whole country.* The ruling chief took the proceeds of the revenue or grain-share of his own (khálsa) domain only. The other chiefs paid him no land-revenue, but only what is mentioned in the text. It is astonishing that this fact should so often be forgotten. In South India, for instance, it was long contended that the Malabar 'landlords' (exceptionally) had paid no land-revenue, whereas, in fact, Malabar had an organization which was closely analogous to the Rájput. The Náyar chieftains, who apportioned the land, paid no revenue, because the king had *his own separate domain.* It was only after the Mysore conquest that a *general* land-revenue was exacted. But in this respect Malabar was no exceptional case, but exactly like other countries all over India. The Mughal emperors were the great general revenue-takers.

But when the Maráthás established their power, they made every chief pay a tribute called 'tankhá' (or 'mámla,' or 'aín' in Ajmer[1]), and this afterwards was paid by custom to the sovereign power, whoever might hold it.

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[1] Tankhá is the Maráthi form: it indicates a fixed assigned sum; 'aín' is a form of the Arabic 'aín, which has a similar meaning.

CHAPTER II.

TENURE OF LAND.

§ 1. *In the Khálsa.*

As regards the tenure of land within the Mahárájá's or a chief's estate, the ordinary form of landholding was very simple: every one who wished to cultivate land permanently, must do so with the aid of a well, a 'taláo' or tank, an embankment, or some work of irrigation; for the rainfall is too limited and uncertain to render permanent cultivation otherwise possible. Any one who chose, could apply to the Rájá's or chief's officials, and get permission to make the work, and he acquired a permanent right (biswádári) to the tank and the land which was watered by it[1]. Other cultivation being only temporary, and rendered possible by a favourable season as regards rainfall, no one acquired any right in the land; it was cultivated by permission for the time being, and then lapsed into the general estate of which it was part.

It was natural that landholders should settle together, and so form villages that had each a separate local name; but no biswádár had any claim to anything beyond his own holding. No one was responsible for his neighbour's revenue-payment, nor did the body of landholders that happened to live together, and who submitted to a common headman, (who looked after the chief's grain-collections), ever dream of claiming any 'common' land, or any right to an area of waste within certain boundaries. The *joint-village* was the creation of the British Government, under the influence of the North-Western Provinces system of Settlement. The original tenure, it will be observed, is just what was found in the Rájput States in Oudh, and what was evidently the general one when *Manu's Institutes* were written.

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[1] And this custom has survived to the present day in Ajmer. Though the village lands have *been made* communal, any member of the village may, by a consent of the majority, take possession of a bit of the common land, and 'by sinking a well, constructing an embankment (to retain the rain-water), planting, drain, or otherwise,' may become 'the owner of such land.'—(Regulation [under 33 Vict., chap. III] II of 1877, § 7.)

§ 2. *Jágír Grants.*

In the k͟há̤lsa lands charitable grants were made, and in the chiefs' estates also. These are always found in oriental countries in favour of religious institutions, or of persons reputed for sanctity and learning. In Ajmer they are called 'jágír.' And the term has not here the meaning which it elsewhere bears; for military service was part of the regular system of the country, consequently grants would not be made on a condition that was the normal one; and 'jágír' simply meant a royal or princely grant in full proprietary right, with a total remission of revenue, or a reduced revenue demand only.

When a jágír was given, the grantee became entitled to all the unoccupied land in the grant, and to such as he had himself provided the means of irrigation for; but lands already in the occupation of persons who had made wells, tanks, or embankments, continued to be held by them, and their biswádárí right was not destroyed by the grant[1], though the holder had to pay his revenue-dues to the assignee.

In jágír estates, the grantee collected the grain-share by estimate of the crop, and fixing the weight which each payer had to give. Money assessment was, and still is, unknown[2].

When the district came under British rule, the true position of the jágír estates was not at first understood, and in 1874 a committee reported on the whole subject. The status of the jágírdár, in relation to the land-occupiers, was formally declared in a Settlement proceeding on 13th August, 1872.

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[1] *Ajmer Gazetteer*, p. 23.

[2] *S. R.*, 1875, § 87.

Out of a total of 150,838 acres, with a revenue of R.91,000, 65,472 acres, with a revenue of R.43,000, are held in jágír by shrines and religious institutions[1].

§ 3. *Bhúm Estates.*

Another ancient tenure recognized in Rájputána was the 'bhúm[2].' It consisted in an absolute estate in a given area of land, which might be coupled with the condition of maintaining good order, being answerable for crime, and so forth.

It seems most probable that the bhúm holding really represented the last remnant of the former estate of a Rájput chief whose family had been displaced in the continual struggle for supremacy that was going on among the different clans of the same (Rájput) origin. The family retained, or were allowed, out of consideration, by the newer chiefs who gained the upper hand, to retain, a certain 'bhúm' holding; and this, being of ancient date and hereditary, was looked upon with great respect. It was an 'allodial' holding—that is, free from feudal obligations. From time to time also, bhúmiyá holdings were created by grant. Such an estate was given, for example, as 'mundkati,' or compensation for bloodshed, to heal a feud, or as a reward for service in keeping watch and ward, &c.[3]. Some owed their origin to grants to younger sons and brothers of chiefs.

These holdings still survive as revenue-free holdings not resumable by the State. Up till 1841 they paid a quit-

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[1] *Gazetteer*, p. 23.

[2] From bhum, 'the soil.' (H.).

[3] Compare the *Marwat birt* of Oudh (p. 241 ante). Colonel Dixon also repeatedly speaks of bhúm holdings as granted with a view to keep watch against Mer incursions. Bhúm holdings in all, cover an area of 21,800 acres, of which 14,800 are in khálsa villages, 5900 in jágír villages, and 1000 in istimrári (chiefs') estates.

Reg. II of 1877, sec. 36.

rent. They are inalienable by the proprietor. They descend, however, not only in the male line to lineal descendants, but without restriction. Even great chiefs like to hold bhúm estates; one Mahárájá and several considerable Thákurs are 'bhúmiyás,' or holders of bhúm lands in Ajmer.

The bhúmiyás were bound to give aid in repressing dacoities and other crimes in their village, and to protect travellers. For some time they were held responsible to make restitution to persons who suffered from a robbery within their limits[1].

There are still 109 bhúm holdings in Ajmer, but 16 are held by chiefs who also hold 'istimrári' estates. These are, consequently, in the hands of a single owner. The others are shared like other property, and there are now 2041 shares in bhúm holdings.

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[1] *Ajmer Gazetteer*, p. 25. This last arose out of the custom in Rájputána that the Ráj should compensate travellers. It is obvious, however, that many 'bhúm' estates would be quite unable to make any such compensation, in case of a large loss, and the custom is consequently dying out.

CHAPTER III.

THE BRITISH LAND SYSTEM.

§ 1. *Results of the Change.*

It will now be interesting to explain how the settlement of the country under British rule has developed or changed the customs thus described. The first thing that strikes us is, that we have now two parallel revenue-systems as it were—one applying to the k͟hálsa land (that which is now managed by the British Government), the other being a system for the management of the chiefs' estates, which has quite a different form.

The k͟hálsa estate, comprising about one-third of Ajmer, became the property of the British Government, and was therefore subject to British law, and has been settled on the North-Western system; proprietary rights, which never existed before, have been conferred on the groups of village-landholders, thus converting them into joint-villages, at least in theory. The same procedure could not, however, have been equitably followed in the chiefs' estates. These had therefore to be separately dealt with. The chiefs' rights were recognized by 'sanad' grants, and no interference with their internal affairs has been contemplated, nor has any Settlement been made for the villages. Our Government has not, in fact, interfered to define the right of any one, except the 'Taluqdár' or estate-holder himself. It will thus be understood that under our rule—

(1) The Mahárájá's 'k͟hálsa' or demesne has become

the general revenue-paying land under British law;

(2) the chiefs' estates have become taluqas, or 'istimrári' estates, paying a fixed tribute. The great estate-holders were called Taluqdárs; inside them no Settlement takes place, and the Government interferes as little as possible.

I shall first describe how matters developed in the Government land.

§ 2. *Early Management of the K͟hálsa Lands.*

At first the British officers managed the k͟hálsa domain exactly on the lines of the original custom. The early administrators were, in fact, the stewards of a great estate. They built tanks and made embankments; they founded hamlets and gave out leases to occupy and improve the lands. Ajmer was, in fact, managed much in the same way as Merwára. In 1849, however, a Settlement of the land-revenue on the North-Western system was ordered. A sketch of the history of the Settlements will be given further on: here it is only necessary to repeat that the contiguous groups of biswádárs were recognized as joint-owners of the whole area included in the several villages; and that the waste, hitherto at the disposal of the State, was allotted out and divided among them. The hamlets founded by Colonel Dixon were also made into villages, the neighbouring waste being given up to them. Thus a very important change was effected. The group of cultivators, some of whom possessed the biswádárí right, others of whom were mere temporary lessees, now became a 'proprietary body'; they were styled in official revenue language 'bhaiáchárá' villages; the waste within the area of each became the 'shámilát,' or common property of the village body.

This course was afterwards much regretted[1]. As soon as forest science was sufficiently appreciated to enable people to recognize that the clothing of Ajmer hills with tree vegetation was essential to the welfare of the country, to the supply of water in its tanks, to regulate both the surface and the subsoil drainage, and not improbably to affect the humidity of the atmosphere, it was desired to form forest estates to be placed under proper management. But by that time the work of 1850 had borne its fruits. The waste land, once the undoubted property of the State and available to form forests which, under State management, might have been the wealth of the country, had, in deference to a system, been given away; and it was necessary, therefore, in 1874, to make a Regulation under the 33 Vic., cap. 3, for forming forest estates, recovering for that purpose the available waste, and allowing rights in it as compensation for the process of re-annexation[1].

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[1] As a matter of general principle, it is always undesirable that State rights should be readily given away, instead of keeping them carefully

Fortunately this plan of constituting State forests has answered well. The benefits are so great that the people may be said to be content, and not only appreciate them, but are even beginning to extend conservancy to other waste lands of their own accord. It is certain that it is only by such a step as that taken in 1874 that the water-supply in the tanks can be preserved, and, above all, that supplies of fodder against times of famine can be secured.

§ 3. *The present Tenures.*

The Land-Revenue Regulation[2] now orders the rights which exist under the village system. The old biswádárs have become proprietors, so that, if a settler desires to come in and clear the waste, he has to obtain the pro-

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to be utilized as occasion requires. I have no doubt that the existence of many *rights of user* (or what we must practically admit as such) in the waste, had its influence in commending to the authorities the idea of partitioning the waste. It is often unfortunately overlooked that a most extensive *user* of the land by one set of people does not necessarily imply that those people had, or ought to have, a *proprietary right* in the soil. This I have explained fully in my *Manual of Forest Jurisprudence*.

[1] The terms under which Government can now take up what has become village land for forest purposes may be seen in section 6 of *Ajmer Forest Regulation VI of* 1874.

[2] See *Regulation II of* 1877, section 7, &c.

mission of the village-body, who are the owners of the waste as their common land.

Partition of the common land is also allowed as of any other jointly-held lands: a *minimum* is, however, fixed, below which division is not allowed to go. Some special arrangements connected with the levy of the revenue had modified the joint-liability of the North-Western system; and care has been taken to mould the Settlement arrangements as much as possible to suit the actual condition of the villages.

§ 4. *State Rights reserved.*

Under the new system, moreover, the State reserves to itself some considerable rights. Besides its usual right of revenue, it remains proprietor of tanks it has constructed, and owns the land (available in the bed of the tank at certain seasons for cultivation), and the land on the slopes of embankments. It reserves also all mineral rights, and may quarry for stone, gravel, &c.

§ 5. *Other Land-Tenures in the Kh́álsa.*

The biswádárí right has thus considerably altered from what it originally was. The 'jágír' tenure and the bhúm tenure retain their ancient features, as already described. II of 1877, secs. 31-6. Bhúm holdings are dealt with in the Regulation; *sanads* are granted for them, and the *sanad*-holder and his successors in interest are alone the proprietors. A rule of succession is also laid down. There can be, as I said, no alienation of a bhúm estate, except in favour of a person who is a co-sharer holding under the same *sanad*.

No jágír is recognized which has not been granted, confirmed, or recognized by a *sanad* issued by proper authority. Id. sec. 37, &c. In this *sanad* conditions may be entered making the rules contained in the Land and Revenue Regulation, regarding alienation, succession, or maintenance, or any other special rules on these subjects that shall be in force as regards the estate, binding; and the jágírdár must accept these rules or resign the estate. There are some bhúm holdings inside jágír estates.

§ 6. *Tenants in Khálsa Villages.*

Under the original system of landholding implied by the biswádárí right, there was but little room for the growth of subordinate tenures. 'A non-proprietary cultivating class,' says Mr. LaTouche, 'hardly exists in either district.' Where tenants exist, they generally pay the same rates of produce as the proprietors themselves paid before the regular Settlement[1].

But though there may be but little opportunity for the growth of tenant-right, there are cases in which a right has to be provided for, which cannot now be conveniently described otherwise than as an occupancy-right.

In the days of rapine, raid, and internal war, which make up the history of the Rájput State, it was inevitable that land should have changed hands; one tribe got the upper hand and had little hesitation in displacing others: not only so, but the repeated occurrence of famine has caused the landholders to get into debt. Hence it may often have happened that an old biswádár was turned out of his land, or was obliged to give it up owing to poverty, inability to pay the revenue, and so forth, but still managed to retain at least part of it as the 'tenant' of the supervening owner. It is now impossible that the effects of ancient wrong-doing can be reversed; so the 'tenant' remains, but is privileged, and the Regulation specially protects him as an 'ex-proprietary tenant.' Such a tenant is allowed a permanent tenure, at a rent which is to be five annas-four pie per rupee less than the prevailing rate paid by tenants-at-will for lands with similar advantages in the neighbourhood. No agreement to pay higher rent is valid.

Reg. II of 1877, sec. 41, &c.

There may be other 'occupancy-tenants[2],' as they are mentioned in the Regulation. This is a wise provision. It virtually allows full latitude to actual facts. Any one can claim an 'occupancy-right,' and prove it by the custom of the village, by special agreement, and so forth. The Regulation admits the possibility of such a right without defining it, and merely attaches certain legal protective provisions to such a right when proved to exist.

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[1] *S. R.*, 1875, section 96.

[2] For example, they may have taken part, though in an inferior position, in building the tank and cultivating the soil that gave origin to the owner's or biswádár's right.

Reg. II of 1877, secs. 52 4. The main security such tenants have is, that besides the right of occupancy (which cannot be defeated, except pursuant to a decree of Court given on specific grounds or on failure to satisfy a decree for rent), the rent is always fixed, or may be fixed on application, at Settlement, or subsequently by the revenue-officers.

It is unnecessary for me to describe the simple provisions of the Regulation regarding the division of crops between landlord and tenant, the practice for ejecting tenants when they are lawfully to be ejected[1], and regarding the relinquishment of holdings by the tenant. The Regulation itself may be consulted.

§ 7. *Modern state of Rights in Taluqas or Chiefs' Estates.*

Side by side with the k͟hálsa villages, which we have just been considering, are the chiefs' estates, in which no such Settlement system has been applied. The estate itself and the right to it has been defined, but its internal affairs are not interfered with. The chiefs' estates, called taluqas (the chiefs being Taluqdárs), are secured to them by law.

The more important of the chiefs' estates or taluqas have been conferred in absolute proprietary right by virtue of *sanads* called 'istimrári' grants. Hence the important taluqa estates are held as 'istimrári estates,' and there are a number of larger jágír grants which are practically on the same footing.

The istimrári estates only pay revenue to Government in the form of a permanent and unenhanceable tribute.

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[1] An 'ex-proprietary' tenant cannot be ejected even on a decree, without the sanction of the Commissioner.

Till 1755 they had paid no revenue, but then the Maráthás imposed a tribute, and various other cesses also. The British Government abolished the cesses, but at first asserted a right to re-assess the tribute. This right was, however, formally waived in June 1873.

The istimrári estates of Ajmer lie in the south (except the detached portions in Písángan and Karal on the north-west). The tracts called Khárwá, Masúda, Bhinái, and nearly the whole of the outlying portion (beyond Kishngarh), except Kekri, are istimrári. The land-revenue under the 1874 Settlement was—

	R.
Khálsa	2,61,557
Istimrári	1,26,016
	3,87,573

This shows the relative proportions from a revenue-point of view.

The istimrári tenure is also associated with certain special rules legalized by the Land-Revenue Regulation of 1877. The estate is inalienable by any *permanent* Secs. 20-30. transfer: a mortgage beyond the life of the mortgagee is also invalid.

Succession is now by primogeniture only; hence there is no *division* of these estates—a fact which has a very important influence. The 'istimrárdár' enjoys also some special immunities and protection regarding criminal proceedings and as regards money decrees of the civil court.

Nazarána is paid according to old custom, to the Government, on the occasion of a succession.

The istimrári estates are now some sixty-six in number, whereas the original fiefs were only eleven. But this will illustrate the importance of the principle of succession by primogeniture. I have in a previous chapter had occasion to remark, in speaking of the old Hindu Ráj, how in some families the principle of indivisibility was preserved, while in others the whole was subdivided till nothing but small estates, which practically formed petty 'zamindáris' or 'taluqs,' or even single 'zamíndárí' and 'pattídárí' villages held by a number of co-sharers, remained. In Ajmer, it seems, the principle of indivisibility—that is, succession to the eldest heir alone—was not at first recognized. In former times the estate was divided among the succeeding sons and heirs, according to Hindu law, though the 'pátwí,' or heir to the dignity of the chief's seat, got a double share[1] in recognition of his position as chief. Then, in course of time, the eldest came to take the estate at large, and the other brothers got a village or two each, on what was called a 'grás' tenure[2].

It is thus the result of the *former* divisibility of estates that the eleven original fiefs broke up into the present number; at least, that is the chief cause, for, in the course of the stormy history of Rájput estates, a powerful branch of a family may have succeeded in effecting a separation of a portion of the estate for his own benefit, without any general principle of divisibility being recognized.

In short, the existing number and size of the estates or taluqas has resulted from the dismemberment of larger estates; and, in some cases, where division of the estates has been effected, the branch estate has remained separate, but subordinate to the larger one[3]. Had the principle of division gone on, the estates would in time have become completely broken up into mere village-estates, just as we saw in the curious case of the Tilok Chandi Báis in Rái Bareli (Oudh). The rule of indivisibility having gained ground by custom, it is now fixed by law. Younger sons now only get a cash maintenance, or a life-grant of villages for their support.

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[1] See *Ajmer Gazetteer*, p. 22. It is interesting to notice that just the same thing may be observed in the estates of the Sikh jágírdárs and chiefs of the cis-Sutlej States in the Panjáb. If there are four sons, the estate will be divided into five lots, of which two go to the eldest.

[2] 'Grás' means literally 'a mouthful,' and implies that the grantee gets a portion of the produce of the villages to which the grant extends, for his maintenance.

[3] The Commissioner, the late Mr. Leslie Saunders, wrote to me as follows:—

'The lesser istimrárdárs are banded together in groups according to their descent, under the present chief representative of the original stock from which they have sprung: such holders of divisions of estates are sometimes called sub-taluqdárs. The lesser istimrárdár is nevertheless full proprietor of his estate, only he pays his revenue or tribute, not direct to Government, but through the chief with whom he is lineally connected. He sits behind the chief in *darbár* (court or ceremonial reception), and is bound to observe the ceremonial acknowledgments of social supremacy customary in native courts. This is, however, sometimes evaded. On failure of an heir, the estate of an inferior istimrárdár would ordinarily revert to the head of the line; and in two instances estates unable to pay their revenue have been made over permanently to the head of their clan.'

The istimrári estate-holders (as well as some of the larger jágírdárs) became, in the course of time, heavily indebted; and in 1872 a Regulation was passed for their relief. Government advanced some seven lakhs of rupees, which was the aggregate amount of the debts, and these were paid off or compromised under the Regulation. The advance, with interest, is being gradually paid back to Government[1].

The present position of the chief's estate is, therefore, a somewhat modified one, as compared with what it formerly was. In old days, it was held conditionally on military service; it was liable to sequestration for misconduct, at least in theory. In the first days, it paid no revenue; but afterwards, not only was a revenue levied, but the revenue was not fixed, and was liable to enhancement, at least virtually so, in the form of cesses and forced aids.

Our Government has conceded a fixed revenue, granted a permanent estate, rendered the estate indivisible and inalienable by permanent transfer, and has enforced no condition of military service.

§ 8. *Subordinate Tenures in Istimrári Estates.*

There may be bhúmiyá holdings and grants-in-jágír inside the chief's (istimrári) estate, just as there are on Government lands, but they are few in number[2]. As regards subordinate tenures, I have already remarked that Government has not introduced any Settlement into the istimrári estates. Having fixed the extent and declared the nature of the tenure, no internal interference in the way of sub-Settlements has been contemplated. Government was opposed to the policy of making records or requiring sub-Settlements for the protection of the village landholders, and in this respect the istimrári villages are entirely differently situated from those in k͟hálsa lands.

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[1] The *Ajmer Taluqdárs Regulation*, 1872, contains a list of 89 'taluqdárs,' some of whom are 'sub-taluqdárs' and istimrárdárs; also of sixteen greater jagirdárs (some of them Muhammadans), who, though they did not owe their estate to the Rájput organization, but to imperial or other grant, are allowed practically to be on the same footing.

[2] The bhúmiyá holdings in istimrári estates only amount to about 1000 acres.

In the early days of British rule, Mr. Cavendish (1829) made a formal inquiry, and the istimrárdárs admitted that the permanent improver of land had a right, which was virtually the same as the biswadárí right recognized in the k͟hálsa[1].

Consequently, though the chief is legally the sole owner, and the people are his tenants, those who would have been 'biswádárs' in the k͟hálsa, have a *practically* indefeasible right. As a matter of fact, disputes between a chief and his tenants rarely or never come before the authorities. Sec. 21. The Land-Revenue Regulation, giving effect to the full proprietary right in 'istimrári' estates, provides that all tenants on such estates shall be presumed to be tenants-at-will until the contrary be proved.

§ 9. *Reflections on Changes in Tenures.*

It is worth while to reflect a moment how inevitably changes of time and circumstance modify land-tenures, without any conscious act on the part of the authorities, still less with any direct desire to modify or 'improve' them.

When the British State succeeds to the old conqueror-Rájá, the 'k͟hálsa' land ceases to be regarded as the *property* of the sovereign; the actual land-cultivators are probably recognized as the soil-owners. They mostly cultivate their own land, and at present in Ajmer we hear very little of 'tenants' or tenant-right.

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[1] *S. R.*, 1875, §§ 85, 86.

In the old chiefs' estates, the cultivators retain more of their ancient, undefined status. We call them 'tenants' of the chief, for want of a better name, though they have exactly the same origin and position as those on whom we have conferred a modern proprietary status in Ajmer. No law defines their condition; but the strong bond of custom, which silently constrains the chief as well as his subordinates, gives them a certain safety of position, which it would be difficult to reduce under any definition.

In Rájput states where there is tolerably constant cultivation, the chief still receives his share of the produce in kind. He acknowledges the custom which gives a man a permanent, heritable interest in any soil he has 'improved' by providing a well or a 'nári' or an embankment to retain water. But the 'tenant' has never had by custom any 'right' to transfer his holding, or even mortgage it. There are also parts where cultivation is so precarious that the tenant pays only a certain low cash-rate *per* family, and cultivates when and what he likes, so that his location is a shifting one, and there is no opportunity for him to acquire what we should call an occupancy-right on any particular field.

Out of these facts the reader may weave any theory of status for the cultivator (under the chief) which he pleases; it is only when such a state of things exists under direct government of English authorities, that we are obliged to try and translate the facts into the language of Acts and Regulations; and then—insensibly and gradually perhaps—they assume the features and the incidents of Western institutions. That is why the Ajmer cultivator is a member of a 'proprietary community,' and his brother in the next-door Rájput state is a 'tenant,' or whatever else we may please to call him.

CHAPTER IV.

THE ADMINISTRATIVE AND LAND-REVENUE SYSTEM.

SECTION I.—EARLY MEASURES.

§ 1. *The First Settlements.*

THE territory of Ajmer has remained as ceded in 1818, with the exception of five villages given over by Sindhia in 1860[1]. Mr. Wilder was the first Superintendent. During their short-lived supremacy, the Maráthás established an arbitrary system of taxation; but, shortly before cession, a land-revenue had been fixed, which was, however, exclusive of the cesses; and the chief's estates were made to pay a tribute. Sindhia farmed the villages for the amount of the 'aín,' or fixed revenue, but extra cesses were levied under forty-four different heads[2].

This system was, of course, abolished by the Superintendent, who returned to the earlier system of estimating in cash the value of one-half the grain-produce of the village. The assessment, however, broke down, owing to famine and failure of crops; and, after that, a short Settlement was made under Mr. Middleton.

In 1827, Mr. Cavendish succeeded to the district, and revised the Settlement. This officer was much more desirous of moderation in the revenue-assessment; and he seems also to have conceived the idea that the groups of biswádárs, with their pátel, or headman, formed 'communities' who might be regarded as owners of the area within the village limits[1].

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[1] *Gazetteer*, p. 75.

[2] One such cess was the perquisite of Sindhia's wives; another called 'Bhent bái Sáhiba,' went to his sister; his daughter and 'pir,' or spiritual adviser, also received each a certain cess (*Gazetteer*, p. 75).

In 1835–36, Mr. Edmonstone proceeded to make a Settlement for ten years, still spoken of as the 'decennial Settlement,' and reported on the 20th May, 1836. This report did not endorse the idea of the village being proprietary. The tenure was compared to that described by Sir T. Munro (Governor of Madras) in Arcot. The holdings were separate, though cattle of the village grazed in common over all unenclosed lands, when the crops were off the ground. None of the Settlements proved successful, because, in such a climate, where rainfall is local and precarious, no fixed assessment, however moderate, could be regularly paid all seasons alike, as is the theory, under an ordinary Settlement.

§ 2. *Revenue System adopted in Merwára.*

About this time the administration of Merwára had succeeded well, and Major Dixon, who, in fact, created it (as already explained), was appointed to the charge of Ájmer also, in 1842. This is therefore a convenient opportunity to explain the simple revenue-system which was adopted for the newly-founded villages in Merwára, and which proved to be very useful in Ájmer, when more formal Settlements broke down, from famines and other causes.

The system was in reality that which the Rájput Rájás worked, only that the grain-share was converted into money.

This is Colonel Dixon's description of the revenue-system:—

'One-third of the produce of the land is taken as the Government rent (revenue) from all classes, except the pátels, who pay one-fourth by appraisement (of crops) called "kankút." On the crops ripening they are appraised by one of the peshkárs (subordinates of the tahsíl), attended by the pátel and the patwárí of the village. It is then decided that the quantity of grain in the fields averages so many maunds (80 lbs.) per bíghá[1]. The business is conducted with much fairness; should the cultivator consider the assessment too heavy, he appeals to the Superintendent . . . should he still remain unsatisfied, a few biswas of the standing crop are cut and the grain separated from the chaff and weighed. . . . The particulars of the field, its measurement, and assumed produce, are entered in the "khasra" or field-book, to be again referred to on the "jamabandi" (revenue-payment schedule) of the village being made.' [Grain, pulse, and millet crops are appraised in this way; cotton, vegetables, opium, &c., are '*zabti*,' i.e. pay a fixed money rate per bíghá, which varies from R. 2–8 to R. 3–4.] 'On the conclusion of the appraisement, "nirkh" or prices current are taken from all the neighbouring towns, when an average price is struck. This is settled by the elders of the pargana collected at the tahsíl.'—(*Sketch*, p. 134.)

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[1] S. R. by J. D. La Touche, C.S., 1875, § 77, &c.

The prices settled, a revenue-roll is made out for each village on the basis of a valuation of the grain-shares from the fields noted in the field-book. This roll shows the total of the village and the *quota* of each cultivator. The money is paid through the patwárí to the local treasury. 'No demur or delay takes place in its payment.'

'The system of "kankút," if carried out with perfect fidelity, . . . is perhaps the most equitable mode of assessment that could be adopted, particularly in a tract of country like Merwára, where the seasons are so unequal and the produce so variable in quantity. During the progress of "kankút" a vigilant supervision is indispensably called for by the tahsíldár, to see that Government interests are not neglected nor extortion practised on the cultivator. . . . Remission is always accorded where reasonable grounds . . . exist. It is always to be borne in mind that, until conquered by us, the Mers paid no revenue. . . . During the last two years we have been preparing them for a fixed Settlement, by assigning a fixed rate per bighá for *maká* (Indian corn), wheat, and barley. During the present year a further advance has been made, by farming out each village *to its own cultivators*. This was effected when the k̲h̲árif (autumn) crop was verging on maturity, and when the prospects of the spring crop, so far as referred to the extent of cultivation were apparent.'

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[1] The Merwára local bighá is 1764 square yards, that of Ájmer 1936 square yards.

[Wheat and barley for the spring harvest are sown in autumn.]

§ 3. *Colonel Dixon's System in Ájmer.*

When the ten-year Settlement of Ájmer expired, it was felt that a more elastic system was desirable; and, in fact, Colonel (then Major) Dixon proceeded to manage Ájmer as he had managed Merwára. He made no formal fresh Settlement, but held the whole district 'k̲h̲ám,' as the revenue phrase is. Within six years, more than four and a half lakhs of rupees were wisely spent in tanks and embankments, and a much lower rate of collection was established; the assessment was reduced to *two-fifths* of the produce, and the 'zabti,' or cash-rates, levied on certain of the more valuable crops, were lowered.

Mr. Thomason, when Lieutenant-Governor of the North-Western Provinces, visited Ájmer in 1846; and, though he could not but admire the work of Major Dixon, he felt that such an administration was solely dependent on the skill and energy of one man; some system that could be worked by any ordinary officer was necessary. As Mr. Thomason was naturally in favour of the North-Western system, he concluded that the plan of village assessments was the only one that would answer as a permanent arrangement.

A Settlement was accordingly carried out in 1849–50 on the 'mauzawár' plan. It has been said that the Settlement was mauzawár only in name[1]. This may be true as regards the collections which were levied on the individual holdings, since it was not practically possible, in a country so liable to famine or failure of crops, really to make the whole village responsible for failure of some of its cultivators. But what is at least equally important, and what made the

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[1] *Gazetteer*, p. 86.

Settlement essentially 'mauzawár,' was that, under orders received, Colonel Dixon divided out the land among the villages, giving the adjacent waste to each, and thus erected the old independent biswádárs and their pátel into a proprietary body, who *became the joint owners of the entire area, waste and cultivated,* in the village. The village boundaries on this plan were demarcated in 1849[1].

§ 4. *Present Form of Administration.*

With Colonel Dixon's death ended an important era in Ájmer revenue-history. In 1858, the district of Ájmer was united with the Merwára parganas under one 'Deputy Commissioner,' who was subordinate to the 'Agent to the Governor-General and Commissioner' (for Rájputáná). This lasted till 1871, when a separate Commissioner was appointed, and the Agent to the Governor-General for Rájputáná became *ex officio* Chief Commissioner. Under the Commissioner, there is now an Assistant Commissioner for Ájmer (with the powers of a Collector and Magistrate), and another for Merwára, stationed at Beáwar. Ájmer forms a single tahsíl; but at an outpost at Kekri is a resident Deputy-Magistrate, who takes charge of certain outlying estates. In Merwára, there were two tahsíls, Todgarh and Beáwar; the former it is proposed to abolish, leaving only a deputy or naib tahsíldár.

The province is organized generally as a 'non-regulation' province, or, to use the more modern and intelligible phrase, it is a Scheduled District under Act XIV of 1874[2]. Its laws will be found collected in the *Ájmer Code* issued by the Legislative Department of the Government of India.

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[1] *S. R.*, 1875, §§ 80, 81. The villages were now called bhaiáchárá. As usual with these official changes, the people did not appreciate them. 'Even now,' says Mr. La Touche, 'the change is hardly understood and is not appreciated by the people. Daily petitions were filed by men anxious to improve the waste land of a village, praying that Government will grant them leases in its capacity of landlord.' Of course such petitions have to be referred to the 'village proprietors' who now own the waste.

[2] *Gazette of India*, 20th October, 1877, p. 605.

SECTION II.—LOCAL CONDITIONS OF AJMER, AFFECTING ITS SETTLEMENT.

§ I. *The Climate.*

In order to make the revenue-system intelligible, I must call the reader's attention to some of the local and climatic features of the country. The Ajmer-Merwára territory lies along the watershed of the continent,—i. e. part of it is on the Aravalli hills, while the larger portion of Ajmer extends over the plains to the south-east. Thus it happens that the whole of Merwára is hilly, while only the north-west portion of Ajmer is so. Mr. Whiteway writes:—

> 'The country lies on the limits of the two *monsoons*, the one from the Bay of Bengal and the other from the south-west. As a rule it would appear that the earlier rainfall comes from the east, and the final downpour from the south-west. There can be no doubt that the two monsoons meet somewhere in the district.'

A ten years' average of five stations showed the rainfall:—

	Inches.		Inches.		Inches.
Ajmer . .	22·8	Jawaja . .	17·6	Dewair . .	24.2
Beáwar . .	19·5	Todgarh .	22·4		

The north part of the district is the highest, and the land slopes away, more or less gradually, on all sides. The rain for the most part drains off, and there is accordingly no permanent under-current of percolation to keep up a supply of water in wells.

The rainfall is also precarious, often falling irregularly, too early or too late; it also falls very locally. Mr. La Touche speaks of heavy rain falling over one side of a hill while it is perfectly dry on the other. There are hardly any natural *permanent* streams in the country (except the Ságarmati in Ajmer), the only rivers being the channels which flow during the rains; the real resource of the country is in *wells*, and especially (in intercepting the rainfall and storing it up) in the *tanks*.

§ 2. *Tanks and their Construction.*

By the term 'tank' we are not to understand a square masonry-lined reservoir. The larger tank (táláb or táláo) is really a considerable area of land covered with water caught from the surrounding catchment area, and prevented by an embankment from flowing away. It is formed by taking advantage of the upper part of the valley in which there is a natural drainage stream, or even of any considerable depression in the soil, or of some convenient hollow among hills, and enclosing the whole area by means of an embankment of earth aided by masonry, so that an expanse of water, usually not very deep, is formed. The rainfall running off the high ground or in temporary streams and channels is thus intercepted and stored up. By sluices and ducts the water is taken off for irrigation. The collection of water in the tanks also helps to some extent to keep the subsoil in the neighbourhood moist, and to retain a water-supply in wells, which are made in the vicinity of such tanks. Sometimes the reservoirs thus formed are considerable lakes. Some of them always contain water: but in many the water gradually evaporates, or is run off; then the whole (or a part) of the moist bed, enriched with vegetable matter, is available to be cultivated. The larger tanks require, of course[1], professional assistance both as to the construction of the embankment, the sluices for utilizing the water, and the escape-channel which is so necessary to prevent damage in the case of a heavy fall overfilling the tank area.

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[1] An interesting account of the formation of tanks will be found in Colonel Dixon's *Sketch* (p. 140 et seq.). I notice that they speak of the cultivated fields irrigated as in the 'rear' of the embankment. The táláo or tank, or rather we should say, the extensive valley or depression embanked, is provided with lime-masonry sluices, and with a good escape-channel for emergencies. The advantages of the tank are (1) direct irrigation of fields in 'rear'; (2) the maintenance of *wells*. 'The water filtrates through the soil, filling all cavities and interstices, and ultimately forming springs.' This result is not, however, always certain, owing to varieties in the subsoil. (3) When the water of the great shallow area of the tank is run off, 'much luxuriant cultivation will be produced in the bed. . . . It requires neither manure nor water, since decayed vegetation washed down from the area of the land drained by the feeders contributes to the fertility of the soil, while the moisture retained in the bed is ample to ripen the crops.

The management of tanks, and their classification into (1) tanks that can be repaired and kept up by village labour organized in a certain way, and (2) those which must be kept up by the Public Works Department, are among the matters which were discussed and settled some few years ago by a Committee on Irrigation.

While speaking of tanks I should not forget to mention the small tank locally called 'nári' or 'nádi,' which can be made by a single cultivator. It often consists of an embanked nook in a gorge on the drainage line[1].

§ 3. *Effects of Droughts.*

In connection with the revenue-system, I must note that a failure of rain, if complete, is called a 'kál'; a scarcity is called 'kurra'; where there is a 'triple' failure of water, grass, and grain, they call it 'tirkál'[2].

Thus in 1868–69 there was a 'kál'; the famine time of 1877–78 was only a 'kurra.'

Heavy rain of general extent is ''álamgiri' or world-embracing; local rain is 'músladhár.' No fall of less than two inches in twenty-four hours, brings water to fill the tanks; and it is calculated that of the total rainfall only two inches over the whole catchment area, finds its way into the tanks. Inquiries made as to the effect of wells in a famine year, though necessarily imperfect, showed that in 1868-69 there were 10,907 wells, of which one-half, or 5524, failed outright; 1869 watered half the usual area;

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[1] *Nári.* 'These small works are táláos (tanks) in miniature. . . . . An earthen embankment is thrown across a hollow, with a view to close up the rainwater, which would . . . flow off the soil. It is protected from the action of the water by a front wall built of stone without cement. The water retained by these field-works has a spread over from ten to fifty and sometimes to one hundred bighás.' Indian-corn is sown in the rear of the embankment, aided by the water, and when the water is run off, the moistened bed is sown with barley for a spring crop. 'Náris are most useful works, their cost being moderate, repairs few, and returns very remunerative.'—(*Sketch*, pp. 88-89).

[2] Whiteway's *Revision S. R.*, § 21, 1887.

1963, between one-half and one-quarter; and 1551 under one quarter.

In 1885–86 there were 13,146 wells, of which 3213 were out of repair; representing about one well to 3½ acres of the actually 'irrigated' area.

§ 4. *Forms of Irrigation.*

The irrigated area is distinguished as (1) tank-land watered by flow, or by lift from the tank channels, (2) well-land, and (3) 'ábi,'—that is to say, land submerged or forming the area covered with water within the tank embankment, which, when the water is run off (or when there is no water in the tank), is wholly or partly cultivated.

The *well cultivation*, besides being in the 'rear' of tanks, is also mostly situated along the valleys which are locally called 'rel.'

Lands watered by wells sunk within a certain distance from the tank or its channels, have to pay at full irrigated rates, not at ordinary well-rates, because really they draw off the tank-water.

In Pushkar there is a curious local feature to be noticed; the whole country consists of hillocks of sand with red soil between; this absorbs all the rain that falls, with the result that the soil between is moist, and even sugarcane can be grown without irrigation. On the sand itself light crops of 'bájra' (millet) grow without much difficulty.

§ 5. *Dry Cultivation.*

The soil is generally light and dry, and therefore there is little value attached to soil unprotected by a well or not accessible to a tank. A sharer whose fields abut on the common land, is always including a piece of such land in it, as the season serves; indeed, by custom (as already noted) he can permanently annex a piece for his own, if he 'improves' it by consent of the majority of the village co-partners.

§ 6. '*Halsára.*'

There is a custom[1] which formerly extended over a large area, but is giving way in places.

'The custom is this: a sharer or a cultivator takes a "plough" each year in the halsára area, for which he pays a sum fixed by custom, and ranging from R. 2 to R. 7. In exchange he is entitled to sow a certain area, which again varies by village custom between 6 acres and 28 acres. The owner of the "plough" settles on the bit he fancies, and as long as he uses only one plough (hál) no one inquires what he occupies[2].'

Dry cultivation is usually mere scratching of the soil, especially during the rainy season, to raise a crop of 'jowár' (great millet, *Holcus sorghum*) for fodder. In halsára land 'tíl' (sesamum, for oil) is generally first sown, or perhaps 'gram' (*Cicer arietinum*); after this the land remains as the sharer's 'sáni' land, in which he may sow jowár for fodder, and then it is abandoned and another spot taken up. The first lies fallow till some one takes a fancy to it and cultivates.

§ 7. *Antecedents of the present Settlement.*

The history of the time of the first Settlement (since 1850) may be passed over. It is a record of struggle with difficulties owing to unfavourable seasons. At one time rain fell in unseasonable torrents, bursting embankments, breaching the banks, and causing floods which rotted the crops and swept away the soil. At another, drought lasted late into the season, cattle died, and revenue could not be paid. But in spite of everything the condition of the country, under wise management, slowly improved[3]. In 1868-69 the district was visited by a famine of exceptional severity and duration[1].

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[1] This custom was greatly inimical to survey, since the fields are never fixed; it also affords great scope for a powerful or rather unscrupulous man getting more than his due share of land.

[2] *Revision S. R.*, 1887. § 31.

[3] In 1860, Major Lloyd minutely inspected the district and made a complete and interesting report on its condition, which fully bears out what is stated above.

After the famine, which destroyed a large number of the cattle, as well as a high percentage of the population, and produced a fearful state of indebtedness among the people, a revision of Settlement was made.

The old custom was that biswádárí holdings were not saleable, so that mortgages are the custom of the country. Even now, land is never sold in execution of a decree of court. After the famine, the last Settlement operations disclosed the fact that the mortgage debts amounted to R. 11,55,437[2].

The report of the revised Settlement was dated 1875. Of course the village Settlement was maintained, but arrangements have been made which mitigated the difficulties of the theoretical joint responsibility[3]. At this Settlement

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[1] See a good account of this in the *Gazetteer*, pp. 90, 91,

[2] *Gazetteer*, p. 95.

[3] On this subject Mr. La Touche writes as follows (*Gazetteer*, p. 93):—

'The village system of the North-Western Provinces is not self-acting beyond a certain point, and a mouzawár Settlement cannot succeed in Ajmer-Merwára. By the term 'mouzawár' is meant a Settlement where the assessment is based on the average of good and bad seasons, and where the principle of joint responsibility is enforced in the collection of the revenue. The seasons present too great vicissitudes to allow of an equal annual demand being assessed, but this difficulty has been partly surmounted in the recent revision by the assessment of water-revenue . . . separately from the land-revenue on the unirrigated aspect. The assessment on the dry aspect includes the full assessment of well land, but in each village where the tanks fail to fill, the water-revenue will be remitted each year. The principle of joint responsibility has not been formally abolished, for cases may arise (though the cultivated area cannot be largely increased in any village) in which it would be just to enforce it. One of the main objects of the recent Settlement, however, has been to reduce it to a minimum. All well known and recognized divisions of a village have been allowed to choose a headman, and each cultivator has been permitted the option of deciding through which of the headmen he will pay his revenue. The total amount payable through each 'pátel' has been added up, and a list of each headman's constituents given to the headmen, and filed with the Settlement record. Thus in a village paying R. 1000 there may be five pátels, two responsible for R. 250 each, one for R. 200, one for R. 225, and one for R. 75. Under the old system the tahsíldár demanded the revenue from those among the headmen whom he considered the most substantial in the village. Now he can tell exactly how much he should collect from each pátel; and if the representative of any *thok* or *patti* cannot be made to pay, very valid reasons indeed should be adduced before the representative of the other divisions of the village are called on to make good the deficiency. . . . . No real *thoks* and *pattis* exist in Ajmer-Merwára, and for a number each biswádár or khewatdár had his own revenue-payment recorded, so that in reality the defaulting holding can at once be traced; the joint responsibility still remains in the background, to be had recourse to *only* if circumstances make it right and proper[1].

SECTION III.—MR. LA TOUCHE'S SETTLEMENT, 1874.

§ 1. *Its Importance and Main Features.*

It will be necessary to describe both the Settlement (Mr. La Touche's) of 1874, and the revision made in 1884–87 under Mr. Whiteway, for the latter has not superseded the records of 1874, nor the assessment in great part, as will presently appear.

As all permanent cultivation is dependent on tanks and wells, the classification of soils for the purpose of assessment has chiefly reference to the irrigation. All land bears a small primary charge (of which there are only a very few differential rates) in its dry aspect ('báráni' in revenue language, i. e. as cultivated by rainfall only). Where there is a permanent well there is a regular 'well-irrigated' rate.

But when the well is within a certain distance of a tank and really derives its water from the tank, the area watered is treated as tank-watered land, and at a higher rate, because it is the most stable and most valuable. Tank-watered land bears the 'dry' rate, *plus* the rate proper to the kind or class of tank available. Consequently, besides the 'dry' rates of assessment, we find the chief variety in the tank-

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of more or less arbitrary subdivisions of land, has been substituted an agglomeration of holdings bound together by the fact that the owners have selected one of the headmen sanctioned for the village, as the representative through whom they will pay their revenue.'

This illustrates the remark I above made about 'bhaiáchárá.' The Ajmer villages are not naturally bound together by common descent or by any principle of joint-foundation, and cannot therefore exhibit any real divisions or subdivisions according to the main and minor branches of a family; nor can there be any natural lien whereby one patti is answerable for the default of the other.

[1] Mr. Whiteway also remarks (*S. R.*, 1887, § 137): 'Practically the bond is so slight that it is doubtful if it could ever be enforced.'

watered lands, or in the 'ábí' cultivation—a term already explained. Thus the following classes of tank-lands were established:—

(1) The tank supplies water for both spring (rabí') and autumn (kharíf) harvests: here the tank always contains water, and so there is no ábí cultivation.

(2) The tank gives water enough for one or two waterings for the rabí' crop, and the land at the bottom of the tank becomes culturable late in the season.

(3) The tank only gives water enough to start the rabí' sowings, and the land consequently emerges early in the season.

(4) Tanks which, when the rainfall has been so favourable that not much water is required from them to irrigate kharíf crops, have retained water late enough to start the rabí' sowings (after which the bed of the tank itself can be sown)[1].

(5) Tanks which only have scanty water for kharíf irrigation; none over for rabí' sowing: the soil at the bottom is here not thoroughly moistened, but still a rabí' crop can be sown on it.

The assessment on tank areas—i.e. land irrigated from the tank (by lift or overflow)—is, as just stated, generally divided into a charge for water and a rate for the soil in its 'dry aspect.' The latter is the highest báráni or dry rate—i.e. for land that is not irrigated. This is always a small charge, so that the greater part of the assessment is the charge for water. The various forms of tank assessment I will now describe.

§ 2. *Assessment on small Tanks.*

For the small tanks it was decided to lump the water-revenue with the dry rate and enter one general rate in the khewat, and the landholder engaged to pay the whole.

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[1] The 'kharíf' crops will get water during July, August, &c.; the rabí' sowing begins in October. No. 4 is the same as No. 3, with the exception that No. 4 comes into play only occasionally.

This is because a small shower fills the tanks for a kharíf crop and the water never suffices for the rabí' irrigation; therefore, ordinarily, the whole assessment (levied in view of these conditions) can be paid, without distinguishing between the water-rate and the 'dry aspect' or soil-rate. It is, however, for the revenue authorities to determine whether the whole amount can be levied in any given year.

§ 3. *Assessments on larger Tanks.—Variable Assessment.*

The normal plan was adopted in the case of the larger tanks, which include a great part of those in Ajmer and the 'first-class' tanks in the Beáwar and Todgarh tahsíls. Under this plan, the water-rate is separated and the sum shown against each holding in the khewat, is the 'dry' assessment only.

The water-assessment is recorded in a lump sum for an assumed standard area of tank-cultivation (which is a fair average area), and has to be paid in addition to the total village soil-assessment. This lump sum is to be made good by distribution over the fields actually irrigated in each year, *unless* its incidence on the actually irrigated area would produce a rate exceeding a fixed maximum or falling below a fixed minimum. Under this system the actual payment is calculated out for each harvest. The amount has to be paid by rates which (naturally) vary—

(1) as the area sown under the tank;

(2) as there was more or less water (when the supply ran short) which the field got.

Crops ripening in the autumn are treated as irrigated, whether actually watered or not, because of the protection afforded. Crops ripening in the spring will have been sown just after the rains (and the season of full tanks), and may or may not have had the benefit of subsequent waterings until harvest time. It will be a question of fact, whether the tank afforded them much or little help in this way. If the tank only gave just enough to start the sowing, a fixed rate is recognized for crops that got 'sowing water'; if there was a supply for full watering, then the full rate will be charged.

This will be clear by an example:—

In the case of the Diwára tank, there are 244 acres measured as 'tálábi'—i. e. as the standard area of tank-irrigated land. The *water-revenue* of the village was assessed at R. 1068, being at a rate of R. 4-6 per acre; the standard area (244 acres) appeared to represent the full capacity of the tank in its present state, and the rate and the resulting total assessment seemed fair and reasonable. It was provided in the engagement, that this sum, R. 1068, should be yearly made good by the irrigated fields, except when the area actually irrigated was so reduced that the rate of incidence would exceed R. 5 per acre; in that case, the actually irrigated area would be assessed at R. 5 and the balance remitted. It was provided, further, that when the area irrigated was so large that the incidence of the assessed water-revenue would fall below R. 3-12, the actually irrigated area should be assessed at R. 3-12, and the excess credited to Government. These *maximum* and *minimum* rates result in this, that, as long as the *irrigated* area does not fall below 213 acres nor rise above 285, the standard or normal *sum* set down in the records is paid, though the water-*rate* varies each year[1].

§ 4. *Ábí Cultivation.*

Land *in the bed* of large tanks which is submerged by the water, and may or may not become exposed and culturable, is not assessed, but is liable to a rate of R. 1-4-0 per acre, by actual measurement, when a crop is raised.

SECTION IV.—THE SETTLEMENT OF 1883-87.

When Mr. La Touche's (1874) Settlement was about to expire in 1884, the question arose, first, whether any revision of assessment at all was needed. But the whole subject of irrigation and the maintenance of tanks had been considered by a committee, and it was decided that some changes were necessary; and also it appeared that a revenue had to be fixed for the area of new cultivation that had arisen since 1874[1], though it was wisely determined to assess it only on the 'dry aspect,'—i. e. as it would pay if there were no wells, thus encouraging 'improvements' by exempting them from contribution to the revenue for the period of the new Settlement.

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[1] *S. R.*, 1875, §§ 260-265. Thus—

Rev.
244 acres @ 4-6 (standard) = 1068
285 „ @ 3-12 (minimum) = 1068
213 „ @ 5-0 (maximum) = 1065 (i. e. nearest figures).

In a despatch to the Secretary of State (December 19th, 1882), the Government of India reviewed the position:—

> 'The temporarily-settled portions (i.e. excluding the chief's istimrárí or permanently-settled estates, jágírs, &c.) occupy about three-sevenths of the entire area, the revenue being about four lakhs of rupees[2]. The Settlement of 1874 was made at very light rates for a term of ten years, with a view to enable the province to recover fully from the effects of the famine of 1869. The increase of cultivation had been such that, under ordinary Settlement rules, an increase of 20 to 30 per cent. would have been equitable; but 1879 had also been a bad year, and the Government was unwilling, by anything like a radical revision of Settlement, to incur any risk of interrupting the growing prosperity of the agricultural population, which we believe to be progressing in comfort and stability.'

The instructions for the Settlement briefly were—

To impose only a 'dry rate' on all *new* cultivation. The dry rates were to be low and to be few in number; the varieties of soil were not great; one or two rates would suffice and probably a single rate in any one village.

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[1] In the non-fluctuating villages, the Settlement Officer did not merely take the area of cultivation which he found existing; he took an average of two good years' and one bad year's area, and then, if this exceeded Mr. La Touche's area of 1874, the excess was, of course, new cultivation and was liable to assessment at *dry* rates, as explained above. The increase on the whole Settlement came to R. 2700 annually over the four lakhs of the former Settlement.—(*Government of India Orders on the Settlement*, 6th October, 1887.)

[2] This includes the permanently fixed revenue from istimrárí estates. The land-revenue from the khálsa is, under Mr. La Touche's Settlement, (without cesses) R. 2,61,557. Under Mr. Whiteway's, it is R. 2,98,927. The istimrárí revenue is about R. 1,26,016.

As regards the old cultivation, that was to be so assessed throughout that the 'dry rates' were separated from the 'water-assessment' (as before). The water-assessment would be allowed to be a fixed total or a variable sum, according to the system already described.

But another important step was to be taken. The Government of India Resolution of 12th October, 1882, had already explained the principles on which it was hoped the future revisions of assessment could be undertaken without the whole expense (and trouble to the people) of a complete re-Settlement operation. And one essential point was to classify the area into that which was 'secure' against calamities of season (owing to complete development of cultivation and means of irrigation), that which was 'insecure,' and that which was liable to fluctuation.

No part of Ajmer-Merwára can be classed as actually 'secure' in the full sense of the term; but it can be classed into 'fluctuating' and 'non-fluctuating'; meaning that the latter at a fairly light assessment is able to pay its way in all but bad seasons, when exceptional measures of relief will be required. The Government orders concluded by saying that when the revision was completed, it would be permanent as far as *rates* are concerned, and that additions to the revenue (at any future revision) would accrue only on the following grounds:—

(*a*) increase of cultivated area (at rates already fixed);

(*b*) increase of value of produce due to a rise in prices;

(*c*) improvements due to outlay by Government.

Thus it will be seen that, except for the assessment of new cultivation, and the change by classifying into 'fluctuating' and 'non-fluctuating' areas, the Settlement of 1887 leaves Mr. La Touche's Settlement of 1874-75 unchanged.

§ 1. *Survey.*

At the present Settlement the new area was all measured and the map of the old areas corrected and brought up to date, and arrangements made for maintaining the maps correct and for keeping up the statistics of cultivation and ownership correct from year to year. A professional survey was made use of for village boundaries and fixing a skeleton of triangles, the interior field surveys being made by the patwárís.

For purposes of survey and for keeping up the records, the establishment of patwárís was revised and augmented, and kánúngos to supervise them reorganized. The Settlement was sanctioned for twenty years.

§ 2. *Non-fluctuating Area.*

The existing Settlement of Ajmer-Merwára regards the district as consisting of two portions, 'non-fluctuating' and 'fluctuating.' The non-fluctuating portion does not quite dispense with a 'variable' assessment. For it consists of villages in which there are good and permanent tanks, or 'rel'—valleys in which permanently-yielding wells are sunk; but it has also tanks which, though permanently-yielding, do not yield always the same quantity; or, in other words, the extent of the advantage varies. Then for tank-land, we have the classification—

(1) Tanks, the supply of which is constant, and which pay a fixed revenue[1]. (These may be subdivided into those repaired and maintained by Government and those maintained by the village community under certain rules.) These tanks pay either—

- (*a*) a fixed sum distributed over the holdings;
- (*b*) at crop rates according to the area measured up at each harvest and assessed at prescribed rates for each crop.

(2) Variable tanks. Here there is a standard area and standard revenue; but the rate paid actually

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[1] It is meant that, 'except in the worst years, the *fixed* villages can pay the revenue assessed on them. When calamity is widespread and of long duration, even these fixed villages will need special measures of suspension and remission.'

varies with the water-supply and with the area irrigated, in the manner already described in § 3, pp. 355–6, ante.

§ 3. *Fluctuating Villages.*

The 'fluctuating' villages are 'well' villages, where the supply is precarious. There are also fluctuating areas within areas which, as a whole, are not fluctuating. Such areas are the portions lying in the bed of certain large tanks which may be covered with water, and only at times become culturable. Such a class needs no special explanation; in it, the crop is measured up and charged at rates prescribed in the Settlement records.

It is only in the district of Ajmer that fluctuating villages were found; none were finally adopted in Merwára; of a total of 139 Ajmer villages, 61 were classed as fluctuating.

In Ajmer, writes Mr. Whiteway—

> 'the villages are either so situated that the well area is proportionately large and the supply of water fairly constant in the wells, or else the dry area is large and the well area small and liable to fluctuations. In the one case the wet area will float the dry, in the other case it will not. This distinction follows naturally from the fact that when the water-supply is plentiful and constant, more wells will be sunk.
>
> 'By the arrangement I have proposed, the revenue of the village is referred to a dry rate, which can, at any future time, should the rise in prices warrant a change, be raised . . . while, whenever at any future time a revision of the revenue is decided on, this revision will merely consist in raising the standard cultivated area and consequently the standard revenue.
>
> 'The advantages of the system are that Government and the landholders will both share the prosperity of good years and in the losses of calamitous ones. In bad years the landholders will have to pay a higher revenue rate, it is true, but as prices in those years are higher, and the revenue is on the cultivation only, this arrangement is but equitable.'

§ 4. *Method of Fluctuating Assessment.*

The essential feature of the method adopted in fluctuating (or variable) villages[1] is that all classes of land are reduced to 'dry units' fixing a standard area of such dry units bearing a certain rate, and charging the actual cultivation of each year so that the rate never falls below a certain *minimum*, nor exceeds a fixed *maximum*. An illustration will make this clear. Thus Mr. Whiteway writes :—'Take the case of village A, in which I have determined that the *assessable area ordinarily under cultivation* is—

	Acres.		Per acre. R. a.	Total assessment. R. a.
Dry	124	assessed at .	0 10	77 8
"Ábí"	40	" .	1 9	62 8
Tank	8	" .	2 13	22 8
Well	50	" .	3 12	187 8
	222			350 0

'It will be necessary to reduce this area to a *multiple of "dry units,"* and this is done simply in the following manner.

'The "ábí" rate, or R. 1–9 per acre as calculated for the standard area, is 2½ times the dry rate (10 annas), the "tank" rate 4½ times, and the "well" rate 6 times.

'The above area *in terms of dry units* will therefore be—

	Acres.	Dry unit area.
Dry	124 × 1	= 124
Ábí	40 × 2½	= 100
Tank	8 × 4½	= 36
Well	50 × 6	= 300
TOTAL .		560

'This 560 was called the "standard dry unit area," and when multiplied by the dry rate of 10 annas will (of course) give the *standard revenue* of R. 350.

'Now, this dry unit area (actually cultivated) is liable to vary from year to year ; and if the standard dry-unit rate of 10 annas were always applied, even in the case of such variations, the revenue of R. 350 would always be subject to annual increase and decrease. Between certain limits of cultivation, however, the revenue should not vary. It is desired that the revenue shall, while falling with a material decrease, or rising with a material increase of cultivation, retain a certain stability. To attain this end the *dry rate is allowed to vary between certain limits.* We may assume that, in the case of village A, these limits are $8\frac{3}{4}$ annas and $11\frac{1}{4}$ annas,—that is, in a good year their rate may be allowed to fall to the former, and in a bad year to rise to the latter rate without affecting the assessment, which we may further assume to have been based on a standard dry-unit of 10 annas.

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[1] Variable as a whole—not merely that the tank supply is variable as in a subdivision of the non-fluctuating villages already mentioned.

'Now, the dry rate is, of course, obtained by dividing the revenue by the dry-unit area; and it will be found that the number of acres of dry-unit area required thus to produce $11\frac{1}{4}$ annas is 498, and to produce $8\frac{3}{4}$ annas is 640; in other words $\frac{350}{498} = 11\frac{1}{4}$ annas, and R. $\frac{350}{640} = 8\frac{3}{4}$ annas. The limits then within which the dry-unit area is allowed to vary above and below the standard dry-unit area (560 acres), without affecting the assessment, are 640 acres and 498 acres.

'Now, turn to the cases where the limits are exceeded. Assume that in any given year the areas are—

	Acres.	Unit area.
Dry	199 × 1	= 199
Ábi	30 × $2\frac{1}{2}$	= 75
Tank	8 × $4\frac{1}{2}$	= 36
Well	60 × 6	= 360
Dry-unit area		670

'The rate found by an assessment of R. 350 on this area would be $\frac{350}{670} = 8\frac{1}{4}$ annas. In this case the rate of $8\frac{3}{4}$ annas must be applied, giving a revenue of $670 \times 8\frac{3}{4} =$ R. 366-6, or R. 16-6 more than the standard revenue, which excess will be credited to Government.

'Assume the case of another year in which the areas of this same village are—

	Acres.	Unit area.
Dry	102 × 1	= 102
Ábi	40 × $2\frac{1}{2}$	= 100
Tank	4 × $4\frac{1}{2}$	= 18
Well	40 × 6	= 240
Dry-unit area		460

'The rate given by an assessment of R. 350 on this would be $\frac{350}{460}=12\frac{1}{6}$ annas. In this year the maximum rate of $11\frac{1}{4}$ annas must be applied, giving a revenue of R. 323-7, or R. 26-9 less than the standard revenue, which must be remitted.

§ 5. *Further Provision for Excessive Calamity.*

The principle thus explained will suffice for any ordinary 'changes and chances' of season. But there may be cases of such total failure that even the *minimum* would press hardly. Mr. Whiteway therefore adds:—

'. . . Further provision must be made for years in which, from any *general failure* of rain, the crops in dry lands are *far below the average*. . . . . In the case of a calamity of a general and widespread character, I propose that the Commissioner should have summary power to declare, for reasons to be recorded, that in any particular year the crops grown in dry lands in all variable [fluctuating] villages are either "nothing" or "one-quarter" or "one-half." In such cases I propose that the value of the irrigated area should remain unchanged, but that of the dry lands every four acres should, if the crop were declared to be a half-crop, count as two, and if one quarter as one, and if *nil* as nothing.

'Thus, if in any year the crop-bearing area of the village A is—

	Acres.	Unit area.
Dry	80 × 1	= 80
Ábí	40 × $2\frac{1}{2}$	= 100
Tank	0 × $4\frac{1}{2}$	= 0
Well	30 × 6	= 180
Total dry-unit area		360

and the Commissioner decided that, by reason of a widespread and general failure of rain, the dry crop of the district could only be considered *a quarter* one, the areas for assessment would be—

Dry	$\frac{80}{4}$ × 1	= 20
Ábí	40 × $2\frac{1}{2}$	= 100
Tank	0 × $4\frac{1}{2}$	= 0
Well	30 × 6	= 180
Total dry-unit area		300

'The assessment will then be made under the rule already given,—i.e. the maximum rate of $11\frac{1}{4}$ annas would be *applied to (only) 300 acres.*

'To simplify the procedure in the variable villages, I propose to reduce all the rates to even multiples of the dry rate[1]. . . . .'

§ 6. *Advantages of the System.*

'There are certain objects to be gained by fixing a maximum and a minimum rate. The spread of cultivation is encouraged, as such spread lowers the rate of assessment; again, the careless scratching of land over considerable areas, which is the opprobrium of Ajmer husbandry, is discouraged. Again, by making the rate variable, there is a certain check on the concealment of cultivation, and it tends to weld the body of cultivators into a community whose interest it is that all fields sown shall be recorded and assessed yearly. Again, the margin which the cultivator has to spare is reduced or raised out of proportion to the reduction or rise of the cultivated area,—that is, his power of paying revenue is to be gauged by the amount of saleable or surplus produce at his disposal, rather than by the total produce of his fields. Assume the case of a village whose community requires for its food and expenses the produce, in an ordinary year, of 100 acres at five maunds the acre, or 500 maunds; and that the standard area of the village at Settlement was 150 acres; leaving fifty acres (at five maunds the acre) to pay the revenue fixed at R. 250. Say that in any year the cultivated area fell to 120 acres; this leaves only the produce of twenty acres or 100 maunds to pay the revenue of R. 250, and it is further probable that the same bad season which induced a reduction in area would also be likely to diminish the outturn. There would be something less than forty maunds to pay a revenue of R. 250. This it could hardly do even at famine prices. Where the cultivation rises, the whole produce of every acre is available for sale, and the whole village can afford to pay the higher revenue. As the cultivators have been saved borrowing at high interest in bad years by the reduction of their revenue, so it is fair that it should be increased to recoup Government when they can best afford to pay. Thus if, in the village instanced above, the cultivation rises to 200 acres, there is the produce (presumably up to or over the average) of 100 acres at five maunds the acre, from which to pay the revenue, —that is, 500 maunds which, at only twenty seers for the rupee, gives R. 250.'

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[1] The actual rates would not ever be (as in the examples given) $2\frac{1}{2}$, $2\frac{3}{4}$ times the dry rate, but always 2, 3, 4 &c. times in round numbers.

§ 7. *Formal provision for the division of the year into Harvests.*

'The main difficulty in the assessment of the villages under this system is that, though the revenue is fixed for the whole year, the assessment is made for each harvest. This is a point which requires the judgment of the assessing officer. He has the rough guide of the former instalments to help him, but he must, in making the assessment for the autumn harvest, depend greatly on his knowledge of the prospects of the spring crop (which will then be sown).'

The rules framed by the Settlement Officer, therefore, prescribed:—

'13. The rate for the autumn harvest will be struck on the completion of the records for the harvest, at a time when the prospects of the ensuing spring harvest are fairly well known.

'The rate to be taken will depend partly on the area under crops in the autumn harvest, and partly on the prospects of ensuing spring crop, and will (subject to the maximum and minimum already given) be so fixed, that the revenue of the whole year may be collected in full without loss or balance.

'14. The rate for the spring crops shall (subject to the rule of maximum and minimum already given) be found by dividing the balance of the assessment of the year not assessed in the autumn harvests by the conventional area of the spring harvest found by the rules already given.

'15. The assessment of these villages shall be made under the superintendence and by the orders of the Assistant Commissioner.

'16. When the rate for the harvest for the village has been settled, the revenue of each sharer shall be fixed by multiplying the rate by the area of his cultivation as shown in the *khatauni*.'

SECTION V.—REVENUE OFFICERS AND THEIR BUSINESS.

§ 1. *Revenue Officials.*

The Revenue officials have already been sufficiently indicated in the preceding pages. The Chief Commissioner is at the head, and there is the Commissioner, with the two Assistant Commissioners of Ajmer and Merwára. These latter are the chief executive Revenue Officers of the district, having powers of a Collector. Under them is an Extra Assistant Commissioner specially charged with the working of the variable assessments and the supervision of the patwáris and (kánúngo) supervisors.

§ 2. *Village Headmen.*

A few words may be necessary about the village headman. The system of 'pátels,' who were purely hereditary, was not found convenient. They multiply by descent, and are remunerated by the village community[1]. It was found that to do the duties of a modern Settlement it was necessary to have headmen who should 'look to Government and not to the village for their position.' Hence the object has been to appoint for each village one, or, if necessary, more than one, 'lambardár' paid by Government by an allowance representing 5 per cent. on the revenue. The change was made gradually, and, of course, the selection of lambardárs is made out of the old pátel family, when there is a man efficient and fit.

The former Settlement further appointed 'zaildárs,' a sort of superior headmen, over circles, to whom orders could be communicated without summoning a number of separate village headmen. The system (though there was some difference of opinion) did not work well, and the office was abolished with its attendant expense.

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[1] The community paid one-fourth of the pátel's revenue for him,—i.e. allowed him to hold one-fourth of his own land virtually free of revenue.

§ 3. *Revenue Business and Procedure.*

The revenue business and procedure does not call for any special notice. Part VI of the Regulation contains the details of it. It is noticeable, however, that when matters are submitted to arbitration, an appeal lies against the decision.

The process for realizing arrears of land revenue is not dissimilar to that under any ordinary Upper Indian Revenue law; arrest, imprisonment, attachment, and sale of moveable property, attachment of the estate, transfer to a solvent 'shareholder,' and sequestration of the estate for a period—these are the processes as elsewhere. If all these fail, *other* immoveable property may, under special sanction, be sold, but *not the land itself* on which the arrear has accrued.

Headmen who have paid up in the first instance, may realize the revenue from the co-sharers by a suit, in which they may join as many of the sharers as are indebted for the same instalment. There is no power of distraint without a suit. Reg. II of 1877, secs. 98–100.

Consequent on the last Settlement, a revision of the rules of practice has been undertaken under the usual heads of collection of land-revenue,—tahsíl accounts, mutations of names, partitions, and rules for supervisors (kánúngos), patwárís, and headmen. There is nothing that calls for special notice[1].

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[1] It is perhaps to be regretted that a proposal to enforce the keeping of village grazing reserves by rules, has been abandoned; it is not possible to enter into the *pros* and *cons* of the case in this place. There was also a proposal to improve the rules for keeping up (and making in some cases) boundary and survey marks which section 106 of the Regulation does not provide for sufficiently; but this was also abandoned.

Part III.—THE CENTRAL PROVINCES.

Chapter I. The Old Settlements.
,, II. The New Settlements.
,, III. The Land-Tenures.
,, IV. The Revenue Officials; their Business and Procedure.

CHAPTER I.

THE OLD SETTLEMENTS.

Section I.—General View of the Territories composing the Central Provinces.

An account has already been given of the origin of the Central Provinces—as a British Administrative Division; here we have only to recapitulate those features which distinguish the districts from other provinces and prepare the way for an examination of the local Settlement system (known in official literature as the Málguzárí Settlement), and for a study of the new system of revenue-assessment (1889), which is here distinctive as well as novel and interesting[1].

We have, in the Central Provinces, no homogeneous country which has generally the same features throughout.

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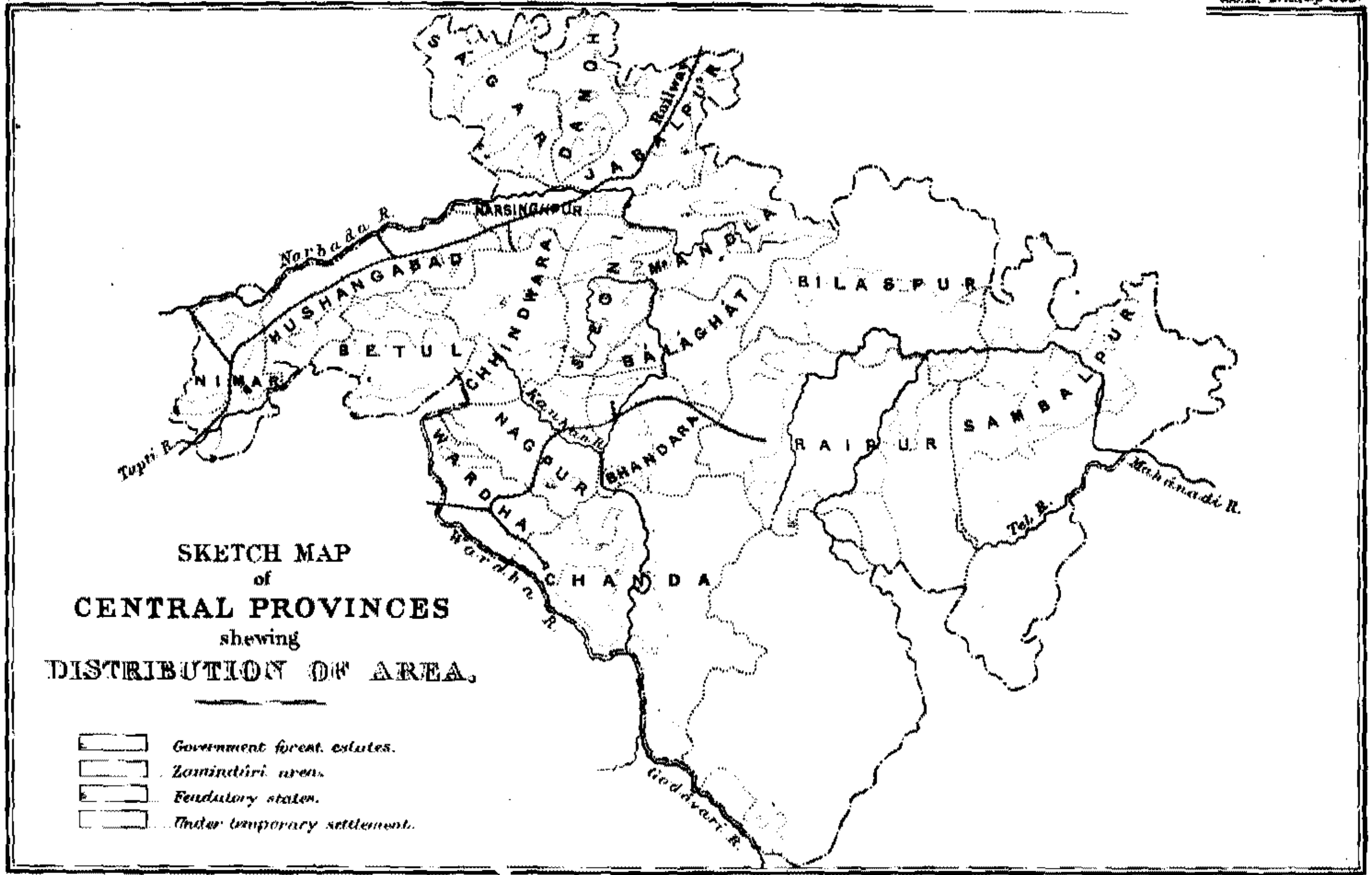
[1] In writing an introductory account of these Provinces I have little more to do than follow an excellent note prepared in 1886 by Mr. J. B. Fuller, Commissioner of Settlements. This section then makes no pretension to originality.


SAGAR
HOSHANGABAD
JABALPUR
Railway
NARSINGHPUR
Narbada R.
MANDLA
SEONI
BILASPUR
NIMAR
HUSHANGABAD
BETUL
CHHINDWARA
BALAGHAT
SAMBALPUR
Tapti R.
NAGPUR
Kanhan R.
BHANDARA
RAIPUR
WARDHA
Mahanadi R.
Tel R.
Wardha R.
CHANDA
Godavari R.
Government forest estates.
Zamindari areas.
Feudatory states.
Under temporary settlement.

SKETCH MAP
of
CENTRAL PROVINCES
shewing
DISTRIBUTION OF AREA.

Mr. Fuller is fully justified in saying that when the 'Central Provinces' was constituted a separate administration in 1861–62, 'a veritable territorial puzzle was pieced together, and tracts were united which differed widely from each other in circumstances, people, and language.' One of the few features which the bulk of the districts possess in common, is the fact that they passed under 'the Maráthá plough'—the iron share of that relentless and greedy rule having left its mark almost everywhere; old rights were ignored, old differences levelled down under the uniform pressure of the revenue-demand, and new men were put over the villages, with such powers as, in the end, were thought to represent, or amount to, a landlord right.

The Nágpur kingdom was held by members of the great Maráthá confederacy, represented by the Bhońslá family; it was of no long duration, but it did its work of levelling pretty thoroughly.

Previous to the Maráthá conquest, another portion of the province, represented by Nimár and part of Hushangábád, had been included in one of the Muhammadan Dakhan kingdoms, and therefore had conserved some of those marks of antiquity which the Dakhan kingdoms, under the wise Settlements of Malik 'Ambar, were careful to maintain. Here also survive the hereditary land officials and their 'watan' or official landholdings. This form of remuneration, I have elsewhere suggested, may be traced to the Dravidian system, which was here in full force in olden times.

The northern portion of the Central Provinces had affinities with Búndelkhand, and had been the scene of Rájput conquest, and exhibits at any rate traces of the 'landlord' village communities which usually arise out of such conquests. 'Chhattísgarh' also (the country of the thirty-six forts or houses, comprising the districts of Ráipur and Bilàspur) formed the kingdom of the Haihaibáńsi Rájputs[1], and Sambalpur was a Hindu kingdom, also of

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[1] They were, however, probably not an Aryan but a mixed race.

Rájputs, but of Uriya Rájputs, whose origin was said to be near Mainpúri, in the North-Western Provinces.

The remaining districts had been the site of Gond kingdoms, and this fact gives them a special interest in the eyes of the student of land-tenures. I have already noticed the leading features of the village association as far as they are known to us. The Gond system, however, readily admitted of amalgamation with the Aryan; and the Central Indian kingdoms became Hinduized, and adopted (if, indeed, they did not originally possess) many features identical with the Hindu Rájás' dominion. There were *quasi*-feudal chiefs, the relics of whose domains still survive in the Zamíndárís (so called) and other estates which are to be found to the east of the Chhattísgarh tract, and again more largely in the west, north-west, and south-west of the province. Indeed a glance at the map prefixed to this chapter will show what a large proportion of the province is held by estate-holders, who whether called 'Zamíndárs' or 'jágírdárs,' or any other comparatively modern revenue title, owe their position not to any definite grant, but to prescription, as survivals of the old Gond kingdoms and feudal estates.

For the purposes of the general revenue history of the province, I shall follow Mr. Fuller in dividing the country into—

(*A*) The old 'Ságar and Narbada' territory, which comprises the districts of Ságar and Dámoh (on the plateau of the Vindhyan hills), Jabalpur[1], Mandla, Seoni, Narsinghpur, Hushangábád, and Betul.

(*B*) The 'Nágpur country,' consisting of the Chhindwárá, Nágpur, Wardhá, Bhandárá, Chándá, and Bálághát districts. The Sátpurá hill range separates this group (as the name Bálághát helps to indicate) from the Nágpur plain on the south and the Chhattísgarh plain on the east.

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[1] The Bijeragogarh pargana of the district (north-east corner) was added later, being confiscated after the Mutiny (1857).

(*C*) The 'Chhattísgarh' country (i.e. the Ráipur and Biláspur districts).

(*D*) The Sambalpur country, watered by the Mahánadi, a hilly and jungly country still further east, once attached to the Chutíyá Nágpur or South-West Frontier Agency of Bengal.

(*E*) The Nimár district, at the extreme western corner of the province between the Narbada and Tapti rivers, and having affinities with Khándesh beyond.

(*F*) To this list must be added a slip of territory to the extreme south along the Godávari river, touching on the Madras Presidency. This was formerly called the 'Upper Godávari' district, and is now the Sironcha tahsíl (or revenue subdivision) of the Chándá district.

We have here a sufficiently diversified theatre, both historically and geographically. Muhammadan rule and Maráthá conquest, the institutions of ancient Gondwána, and those of Northern as well as Orissa Rájputs, have all contributed something to the production of the present condition of things.

In respect of climate, the Central Provinces generally enjoy a securer rainfall than many other parts of India. Irrigation is, however, generally resorted to, and is derived (1) from tanks and ponds; (2) nálas or streams; (3) artificial channels; and (4) wells.

Tanks are often large areas of local depression in which water can be retained by suitable embankments called bandhiyá (H.) and gathá (M.)[1]. Ponds are smaller reservoirs suitable for irrigating single holdings. In Chándá, Bhandárá, and Sambalpur, where rice and sugarcane abound, this form of irrigation is largely resorted to. From streams or nálas (which have water in the rains) water is obtained by the 'dheńkuli' or lift at the end of a lever. Sometimes a well is excavated in the bed of a stream, just under the bank, and a staging is erected over the well, so that water is drawn up by a bucket. In some cases the well is securely roofed over before the rains, so that when the stream is in flood, the shaft may not be injured. Artificial channels (called tár) are used in Chhattísgarh; a stream is dammed up, and small rivulets for irrigation are taken off from the dam. Wells are either permanent, or (in favourable places) temporary or 'kachchá,' i. e. mere holes in the ground from which water is raised by lever-lift[1].

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[1] I may remind the reader once more that the letters indicate the dialect; H. = Hindí, M. = Maráthi, P. = Persian, and so on.

(A) The Ságar-Narbada Territory.

§ 1. *Under Native Rule.*

Excluding a number of smaller tracts, first made over for management by Sindhia and afterwards ceded in full, and other tracts acquired by exchange, transfer, or confiscation at the Mutiny (1820–1860) the bulk of the territory became British in 1818, partly by treaty with the Peshwá, chiefly by cession from the Bhonslá king (Áppájí). Some idea of the pressure of the Maráthá revenue-system may be formed from the fact that the revenue was run up to about sixty lákhs of our money[2], a sum only two lákhs short of the present revenue of the entire Central Provinces (which includes a good deal besides the Bhonslá kingdom). 'This,' says Mr. Fuller, 'could only have been possible under a system of rack-renting pure and simple, under which any rights which stood in the way of the State exchequer were swept aside.'

The system which the British Government found in operation in the tract we are now considering, was one of farming to málguzárs; and whatever rights the pátels of villages once had, were almost entirely destroyed. 'The revenue system of the Maráthás was to keep as many villages as possible under management of Government officials (k̲h̲álsa) collecting direct from the cultivators. Leases were, however, frequently given for short terms—from one to three years. The terms . . . left but a very small margin of profit to the lessees, seldom more than one-tenth of the rental assets, and very often the demand exceeded the estimated assets of the village[1].'

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[1] See a good account in the article 'Central Provinces' in the *Imperial Gazetteer*.

[2] That is, in 1818, after the Deogáoṅ treaty of 1803 had given up Berár (to the Nizám) and Katák (to the British).

In Narsinghpur, it is stated[2], 'when extortion by main force failed, other devices were not wanting. Pátels were tempted by titles and dresses of honour to bid against each other, and were alternately coaxed and squeezed till they had nothing left to make them worth attention.'

In Hushangábád[3], the position of a málguzár was one which conferred no rights and had no stability. Whether under the Bhoṅslás in Hushangábád or under Sindhia in the Harda pargana, when the 'ámil (revenue-officer) made his yearly Settlements, there was no reason whatever why he should make it for any given village with the same man with whom he made it last year. The pátel had not only 'no legal right of renewal, but the custom of renewing the lease was not even sufficiently prevalent or universal to create a *quasi* right or to enlist public opinion strongly on the side of renewal.' In Betul, 'the old pátels had to make way for a race of speculating farmers, who agreed to any conditions in the hopes of securing a footing in the village for better times to come.'

Under such a system, tenants or cultivators had no secure rights. Old or new, they had to make their terms, or else give place to some one who would make the attempt. Of course the more substantial held on from father to son, with that strong attachment to land which is everywhere to be found; but no right of holding on terms independent of the will of the revenue-manager, seems to have accrued from such continuous possession[4].

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[1] This is from the *S. R.* of Dámoh District, § 50. The lessee's profit was called 'dupási' (corruption of do-biswa), i. e. two-twentieths of an acre—one-tenth of the income.

[2] *S. R.*, § 46.

[3] *S. R.*, pp. 39, 150.

[4] See Betul *S. R.*, § 102.

§ 2. *Early Management under British Rule.*

Before the first Regular Settlements (now expired or expiring) were made, there was the usual preliminary period of tentative methods, always more or less unsuccessful. The fatal mistake was to suppose that peace and security would enable the people to pay the same revenue as the native rulers—with all their skill in squeezing up to the last point, and then leaving just enough for their cultivators to live on—could extract.

In the course of twenty years the initial revenue of 28½ lákhs diminished to 24 lákhs[1]. The revenue of the tract is at the present moment only 23½ lákhs.

On the expiry of this tentative period, the districts were inspected by Mr. R. Mertins Bird, and a twenty years' Settlement made at reduced rates with the pátels, nothing being said about proprietary right; the pátels were allowed to make their own arrangements with the raiyats, but were to prepare yearly 'jamabandi' or rent-rolls of what each was to pay for the year—beyond which no demand should be enforced.

This twenty years' Settlement was made between 1835 and 1838. The rates (based on the then usual percentage of 66 per cent. of the assets) were too high, and the assessments had in several cases to be reduced, especially in Ságar, Dámoh, and Seoni.

Mr. Fuller writes—

'Perhaps the most important point in the system of the twenty years' Settlement was the crystallization of the policy of interference between raiyat and pátel. In recommending non-interference with rents, Mr. Bird certainly did not mean that the prohibition should extend to the pátel, and yet this was the result of the Ságar and Narbada Rent Rules (*Narsinghpur S. R.*, section 46). The Hushangábád Settlement officer writes that, although after the twenty years' Settlement our relations with the raiyats changed our system, the practice altered slowly; and "although the málguzár was formally declared to be entitled to sue a tenant for increase of rent, there appears not to have been a single suit of the kind ever brought, except for increase proportionate to increased cultivation;" and in another place he alludes to "the law of the territories, which prevented a málguzár from ousting even a new tenant, except by regular suit, and prescribed no means for raising the rent of an old one." There resulted from this, of course, great inequality in individual rents; and an impression grew up among the raiyats that their rents were unalterable, except by Government order—an impression which offered very great obstacles to the readjustment of rents during the making of the Settlements now current.'

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[1] A great decline in prices and the cessation of local expenditure when the Maráthá armies were disbanded, were among the causes which led to this. But, as Mr. Fuller adds, a great reason was that while we kept up the high demand from the pátels, we did not permit them the necessary power of pressing the raiyats, which was the only way in which they could answer to the demand.

When this Settlement expired, a formal proclamation was issued in June 1854, and preparations were made for a new 'regular' Settlement, under which *proprietary rights were to be given to the pátel* (or málguzár, whichever was in possession).

(B) The Nágpur Country.

§ 1. *The Maráthá System.*

These districts came under management in 1818, owing to the Bhoṅslá king's minority, and so remained till 1830; but in 1854, when the king died without heirs, they again returned as permanent additions, by escheat, to British territory. Sir R. Jenkins was Resident at the Court of Nágpur, and in 1822 he prepared a report which gives a complete and interesting account of the condition of the districts when their management was assumed.

The Maráthá rulers, as usual, made annual Settlements, such as those already described. The pargana officer (called kamávisdár) made a total assessment for the pargana, which was distributed over the villages in consultation with the pátels. But a very curious system prevailed in the matter of the amount of the assessment. The revenue was not fixed till the character of the season became pretty well known. As the pátels thus engaged for an unknown sum, they resorted to a device for distributing the burden on the raiyats according to capability, by establishing a system of *comparative values* for the lands in the village. First, however, an area of poor land, called the 'thok' fields, was deducted; these were too poor to be taken on anything but a small fixed money rent. But the better lands were called the 'chal' lands, and each field was given a value, which was not a positive assessment, but represented its value in comparison with other 'chal' fields. This value was called its 'aín,' and was expressed in fractions of a rupee—annas, pies, and cowries (kauṛi)—e.g. if one field was rated at twelve pies and another at six pies, the former would pay double the latter, whatever the actual rate of the assessment was. The crudity of the system consisted in the fact that the 'aín' was not fixed on a real and permanent difference of yield power, but might be altered from year to year. When the revenue was given out, the amount realizable from the 'thok' fields was first deducted[1], and then the balance was distributed according to the 'aín,' and a yearly roll was prepared called 'lagwán' (like the 'jamabandi' of modern times), and showing the 'dhára,' or rate, at which the field was assessed according to its relative (aín) value.

Sir R. Jenkins further notes—showing how completely the right of the permanent village cultivator had been levelled down and destroyed—that 'none of them [the cultivators] are entitled to cultivate the same fields in perpetuity, nor is it the practice to grant leases to them for more than one year.'

§ 2. *Early British Management.*

The British management during the Rájá's minority may be passed over; it consisted chiefly in substituting triennial for annual Settlements, and so far affording relief; but otherwise the native system was in substance unchanged. The raiyats were, however, protected against arbitrary interference on the part of the pátels. From 1830 to 1854 the native rule was resumed. 'The policy of the period of British management was adhered to, but without the watchfulness which made it work satisfactorily, and the result was a considerable decrease in the revenue.' After the escheat in 1854, summary Settlements were made, and the raiyats were protected against any enhancement of their rents. In June 1860, orders were issued for a regular Settlement, *proprietary rights being* (here also) *conferred on the pátels and málguzárs.*

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[1] Lands that were 'thok' one year might, if they improved, become 'chal' the next, and *vice versâ*; the 'chal' always formed the greater portion of the village.

(C) Chhattisgarh.

§ 1. *Under Native Rule.*

These two districts (Ráipur and Biláspur) below the Sátpurá Gháts, were acquired and held in the same way as the last described territory,—i. e. they were under British management between 1818 and 1830, reverted then to native rule, and escheated in 1854.

These districts owe certain peculiarities to the fact that before Maráthá times they had been ruled by a dynasty of the Haihaibáńsi clan, probably for a period of a thousand years. We may safely assume that the 'Rájput' rule was moderate: the king (as usual) took his revenue from his royal demesne, and the chiefs from their estates. But, at the time when British management began, the Maráthás had been in power for about sixty years, and the later years are said to have presented 'an uniform scene of plunder and oppression, uninfluenced by any consideration but that of collecting, by whatever means, the largest amount possible.' The system was similar to that of Nágpur, except that in Chhattísgarh the cultivator held fields according to a relative value or 'aín' put on him personally, *according to the number of ploughs he had.* Each raiyat paid the sum or multiple or fraction of the sum, fixed as the value of one plough in his village for the year. In Nágpur, he paid according to the 'aín' of his fields, and inequality in assessment was corrected by raising or lowering the 'aín' of the field. In Chhattísgarh it was corrected by increasing or diminishing the area of the holdings. The village was divided into as many plots of similar land as there were ploughs entered in the assessment list; and the plots were distributed among the raiyats in accordance with the number of ploughs for which each was responsible. The country is undulating, and there is a considerable diversity of soils; in most villages at least four kinds are recognized. Each plough-plot was therefore made to include samples of each kind in proper proportion; and hence it consisted, not of a compact block, but of small, often tiny, plots scattered about. To secure the operation of the system, the village was first divided into lots, called 'morá,' of equal value; and each 'morá' was subdivided into 'ploughs,' the morá being worked by a group of fellow castemen as far as possible. In order further to ensure equality, there was a periodical redistribution, called 'lakhá-battá,' which has not yet wholly disappeared[1]. If cultivation increased, or the number of holders of a lot, so that the revenue responsibility became unequally distributed, the headman (pátel or gáoṅtiyá) assembled the people and made a redistribution[2].

Colonel Agnew, whose name is still gratefully remembered, was the first British Superintendent, and had maintained the native system, merely freeing it from abuses, and insisting that the pátels should not exact more than was set down in the distribution list sanctioned by the Superintendent. On the lapse, in 1854, triennial Settlements were resorted to, till the regular Settlement, in 1862. The revenue continued to increase.

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[1] This is an exceedingly curious fact: here the method adopted to ensure revenue-payment is much the same as that followed by the old 'republican' tribes when they adopted the bhaiáchárá allotment of village lands, or the bigháddám system as it is otherwise called.

[2] Here note the principle of exchange which we shall again notice among the tribes occupying land on the north-western frontier of the Panjáb. It is a remarkable fact that, in both instances, the plan is not observed in the *oldest* colonies or settlements, but in comparatively late times.

(D) Sambalpur.

To the extreme west of Chhattísgarh is the district of Sambalpur, having affinities with the Orissa States; it is a jungle country, and had also been under a Hindu dynasty of a different race from the preceding.

It is a rice country; only here rice is *transplanted*, whereas in Chhattísgárh it is sown *broadcast*. The cultivated part is everywhere isolated, surrounded by jungle-clad hills. The Maráthás took the district in 1797; but, by British intervention, it was restored to the old dynasty in 1817, and so continued till it escheated to the British power in 1849. The Rájá regarded the village headmen (Gáoṅtiyás) as 'thekádárs,' or mere lessees for revenue purposes. Here the system was a periodical lease, at a fixed amount, which was, however, indirectly raised by the levy of a fine or nazarána at each renewal. The increase was partly recovered from the raiyats, by raising their rent or payment, but was mostly paid by the headman, whose 'sír' (locally called 'bhográ') holding was left out of count in distributing the ordinary revenue-assessment over the village lands.

The land was valued on a plan resembling the Nágpur system, by a relative value, or 'katbárál'; the holding was reckoned in size according to the quantity of seed which it took to sow it, that being the only known method of calculating area. The 'embanked rice cultivation' was (in early times) alone assessed; 'át,' or uncultivated dry cultivation, was not reckoned [1]. This valuation, however, was not annually varied as in the Nágpur country. Mr. Fuller attributes the difference to the incidence of the assessments. 'In the Nágpur country the assessment was so heavy as to be unrealizable unless every man paid his full share, whereas in Sambalpur it was extraordinarily light, falling at less than two annas per cultivated acre.'

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[1] In Vol. III it will be found that this was the method on the west coast of South India. There also, only rice cultivation was reckoned, casual dry cultivation being regarded as a supplementary matter not to be counted on. Land was also measured by the quantity of seed required. So do primitive methods repeat themselves in widely different localities and among peoples, now different, but whose origin, if it could be traced, may really have been identical.

On the escheat, the 'nazarána' was abandoned; a triennial Settlement was made at a slight enhancement, and then five years' leases. In 1858, the same leases were renewed; and a regular Settlement (recently expired) was commenced in 1872. For part of this period the district was disturbed by the rebel Surendar Sái, with whom the people took part. A long discussion also arose as to what form of Settlement should be adopted.

(E) Nímár.

In the opposite (west) corner of the province is this district, which has a separate history. It is distinguished by having been under the Muhammadan (Dakhan) rule. It then passed to Sindhia. One portion was made over to British management in 1820–25; the portion adjoining Hushangábád was added in 1844; and the whole, with certain small additions, was ceded in full sovereignty by treaty in 1860.

This district (and a strip of Wardhá, which had been under the Nizám) are the only parts of the territory which had been long under Muhammadan rule; they are marked by the survival of hereditary village and pargana officers enjoying 'watan' rights,—described in some detail in the chapters on the Bombay Presidency.

'Nímár' [writes Mr. Fuller] 'has now dropped out of special consideration, but for a long period it occupied a position something resembling that now occupied by Egypt. It held the key of the communication between Upper India and the Dakhan. The range of hills and jungles which stretches right across the Indian peninsula from the Bay of Bengal to the plains of Gujarát, is at its narrowest width in Nímár, and is broken by an opening commanded by the fortress of Asírgarh, beneath the walls of which the Mughal armies of Akbar and his successors marched and countermarched in their expeditions for the conquest of Southern India.'

The northern part of Nímár belonged to the Ghori kingdom of Málwá; the southern, to that of Khándesh, under the Fárúkhi king, who reigned at Burhánpur. In 1600 A.D. both passed under the Delhi Empire. In 1720 the district was seized by the Nizám, but, twenty years later, began to fall into the hands of the Maráthá Peshwá. By him it was bestowed on Sindhia and others. In 1819 Asírghar was stormed by a British force, and certain parganas were annexed. The rest of the district remained with Sindhia till 1825 and 1844, as above stated

§ 2. *The Muhammadan System.*

The Muhammadan system was that of 'tankhábandí,' or fixed assessment at area rates, representing one-third of the produce valued in money. The assessment was in detail on each cultivated field in the village, and the total of the village assessments was the *tankhá* of the pargana[1]. The 'tankhá' was not fully collected, but only on lands actually cultivated[2]. In short, the system was purely raiyatwárí.

§ 3. *Effect of the Maráthá Rule.*

The short Maráthá rule did not alter the system; but, as usual with Oriental conquerors, a change was effected by levying additional 'cesses.' At first, a 'sirdeshmukhí' (overlord's right) was added, at about 10 per cent. of the revenue. 'And further cesses, under the name of "pattí," were gradually superadded, until, at the commencement of the present century, the Mughal assessment was a mere name, swamped amongst a multiplicity of additional cesses that formed the total of the land-revenue demand[3].' The pargana officer (kamávísdár) was responsible for the lump-sum assessed on his pargana, and as long as he paid that, the rulers did not care what extortion he practised. As the Khandwá pargana petitioned in 1803-4, 'the pargana officer, pátels, . . . and officials are pleased and thriving, but the raiyats are plundered.'

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[1] Nimár *S. R.*, § 126.

[2] But this perhaps accounts for the great difference between the Mughal assessment of 4¼ lakhs and that now realized—1¾ lakhs.

[3] *S. R.*, §§ 153-155.

§ 4. *The British System.*

When the parganas came under charge in 1825, a period of 'farming' was kept up for about twenty years. Offers were made to the pátels and to many outsiders, and whoever was satisfied with the smallest margin over the sum payable to Government, got the lease[1].

The leases or farms were for five years. After two such periods, Kánapur and Beriá were leased for a third quinquennial period, but the rest of the tract was settled for fifteen years.

The hereditary pátels and others held their 'watan,' whether or not they engaged for the village. This Settlement was unfortunate; prices fell, and large remissions had to be made. The great difficulty was to keep the raiyats on the lands. 'It reads,' says the Settlement Officer, 'like a satire on later discussions about cultivators' rights of occupancy, to hear that at this time, written leases were executed by the raiyats, not to secure them in the occupancy of their holdings, *but that they should be at liberty to give them up when they pleased*[2]. In 1845, the Settlement broke down altogether.

As regards this system of leasing, it is to be noted, that, though the leases were put up to auction, in entire disregard of the 'rights' of the pátel, the position of the raiyats was jealously regarded: 'for a long time past, it has been quite a raiyatwárí system, in spite of the villages being rented, and whether rented to their own pátels or to strangers[3].' A 'jamabandí' or rent-roll was prepared for each village, and the farmers were debarred from any enhancement of the cultivator's payments therein entered.

After 1845, a period ensued in which the Government officers held on what was called 'the k͟hálsa system,' i. e. made collections direct from the cultivators, with the aid of the pátels as village managers, who were allowed 5 per cent. on the land-revenue. This system was regarded as temporary, and in 1847 orders were issued for its discontinuance[1]. Of course the idea was to make joint-village Settlements (mauzawár, in revenue language). This necessitated creating a property in the soil, making it heritable and transferable without reference to Government; but it was *to be created on condition of a joint responsibility for the revenue.*

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[1] See Nimár *S. R.*, § 172.

[2] See *S. R.*, § 181.

[3] *S. R.*, § 174 and § 160.

The old resident cultivators are here called júnádárs[2]. No doubt these were exactly in the same condition as those who, in Bombay, would be raiyats on the 'survey-tenure.' They were, in fact, the usual old raiyatwárí village-groups, over whom no direct landlord class had grown up; they therefore held to their own individual right, but had no idea of forming a joint-body with co-sharing rights over an entire area. The pátels were put aside as regards any claims to being proprietors. Failing the cherished plan of making the júnádárs into a joint community (apparently on the severalty-enjoyment or pattídárí model), the orders went on to say that the júnádár should be regarded as owner of his own holding, but with the pátel as 'superior proprietor.' The júnádárs would have none of the joint responsibility[3], and, therefore, the proposal to create proprietary village bodies fell to the ground. A Settlement was then made, in 1847, for certain parganas and villages, for twenty years, while the rest continued to be held k͟hálsa. The Settlement that was made called *no one proprietor in terms*; and the Settlement Officer of the current Settlement notices that in the forms of the 'muntak͟hib'—one of the documents of the Settlement in the old North-Western Provinces form—the column for 'name of proprietor' was studiously left blank, except in the case of mu'áfídárs (grantees of fields revenue-free). It was further remarked that no one thought they had got rights under the Settlement; no málguzár exercised any rights of a landowner, nor did alienations take place [1].

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[1] The district was then under the North-Western Provinces, and in those days a 'raiyatwárí' system was there held in something like abhorrence.

[2] From júná (H.) = old.

[3] Another of the many proofs that a real joint interest in a common area extending over a whole village is not always the true historical form of landholding in India. The strong joint claim arises where there is a tribal family or a body of descendants of a chief or grantee, who claim to be lords of every inch of the petty domain—one or more villages. This remains joint until it is split up into severalties or into severalties with a certain portion of common. Even then, though the enjoyment becomes separate, there is the spirit of union as to ownership of the entire area.

The condition of the two southern parganas (Zainábád and Manjrúd) which remained under Sindhia's government till 1860, was different. At first the parganas suffered heavily by the location there of Sindhia's great army, and by a severe famine which (after 1803) nearly desolated the Taptí Valley. In these parganas the great object was to induce cultivators to stay and to restore the country, so the Mughal assessment was respected and revenue demands kept moderate. 'The result of this has been the preservation, in an extraordinary degree, of the "ancient" Mughal institutions.' [They are *really* ancient Hindu forms adopted by the Mughals, and more easily traced in *Manu* than in any record of Akbar, or the earlier Muhammadan authorities.] 'The establishment of hereditary pargana and village officers was nearly complete; the raiyats have a firm and undisputed hereditary title in their holdings.' Naturally, when arrangements were made for a regular Settlement, the state of things was favourable. Arrangements for the last (unexpired) Settlement were made in 1864.

(F) Sironchá.

This tract consists of the small patches of open country along the left bank of the Godávari. They are separated by the intervention of a piece of the Bastár State territory.

Certain district officials of the Nizám's government, called 'sírdesmukh,' had had the management, and, on cession, in 1860, were found entitled to be recorded as 'superior proprietors' of the three eastern talukas (as the subdivisions are here called), and full proprietors of the Sironchá taluka. Irrigated land had been assessed formerly by the area, and non-irrigated by ploughs. Annual leases were granted, showing the number of ploughs held and the rate per plough. The fixed revenue was called 'Aín-qaul,' but there were many extra cesses. The practice was to have the revenue paid before the crops were removed. In 1860, a summary Settlement at rates below the Nizám's was made, and continued till the last regular Settlement.

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[1] *S. R.*, §§ 220-222.

SECTION II.—THE SETTLEMENTS OF 1863–75, RECENTLY EXPIRED.

The regular Settlements, which have recently expired, were distinguished from those which preceded them by the general conferment of a proprietary right on the málguzár (i. e. a generic term for the people who farmed the revenues —who were either strangers, Court favourites, and others, or the pátels, or natural headmen of the villages, who might or might not have obtained the farm).

It has been mentioned that, in 1846–47, the attempt was made to introduce this principle into Nímár. In 1854, it was also introduced into the 'Ságar and Narbada territories,' then under the North-Western Provinces Government. The intention was proclaimed 'to make another twenty years' Settlement, and to confer the zamíndárí (proprietary) right on such persons as may appear to have the best right to such a gift, either from their having long held possession, or from their having, since the cession, brought estates in their possession into cultivation, and regularly paid the Government demand on them. . . . . Every proprietor will enjoy the free right of transfer or division.' These orders were extended to the Nímár district by orders of 19th December, 1864. In 1860, the Government of India (who held the direct supervision) instructed the local authorities of the Nágpur country and of Chhattísgarh, that there also proprietary right should be conferred on the málguzárs, 'so far as it can be carried out without prejudice to the rights of others.' The detail of these orders properly belongs to the chapter on Tenures; it is sufficient here to state the fact, as, of course, the grant carried with it the right to hold the Settlement.

These orders applied to all the districts of the Nágpur and Chhattísgarh divisions except Sambalpur. For the last-named district, in 1862, a proclamation (by the Chief Commissioner) was made, extending the same orders; but, as will be noticed more particularly under the head of 'Tenures,' circumstances prevented the orders being carried out, and they eventually were applied, in a modified form, to confer a proprietorship on the *headmen, in their home-farms only*, with certain other rights in the village generally, as Settlement-holders.

The grant of these proprietary-rights was admittedly a mistake[1] in many cases; and in Nímár and in Chándá the grantees were considered to have so little right to treat the cultivators in any degree as their 'tenants,' that serious proposals were made to modify the Settlements.

It should, however, be observed that (apart from the special case of Sambalpur) this conferment of proprietary right was far from unrestricted. Government reserved its right to all mines and quarries and to all large forests containing useful timber; and 'where large tracts of uncultivated land exist, the Government reserves a right to dispose of them as it thinks proper[2].' But, perhaps, the most important reservation was that of the rights of persons other than the málguzár. The mistake of the Bengal Permanent Settlement was carefully avoided. The reader is already familiar with the plan which, if not exactly conformable to juristical definition, or even logical, is still practical, namely, that of creating different grades of proprietorship—allowing a man to be full proprietor of his own holding without being proprietor in the sense of having any rights over the village at large, or any voice in its management and general profits. This plan was early resorted to in the Central

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[1] See *Resolution of Government of India* (No. 526, dated 21st June, 1875) in the printed Chándá correspondence. 'It is clear that a serious mistake was made in applying to these districts a system of Settlement foreign to the tenures of the country and unsuitable to the people,' &c.

[2] Proclamation of 1854.

Provinces districts. Cultivators who had been in possession of their holdings since 1840, were declared to be full proprietors of their holdings, as early as 1853. For these the term 'málik-maqbúza' (= owner of that which is possessed) was adopted, and will be met with in other places, e. g. in the North Panjáb.

But there were other classes of tenants to whom permanent but lesser rights belonged; and, after long discussion, it was determined (in 1865) that 'absolute occupancy-rights' (no liability to ejectment at the will of the proprietor, and free from enhancement of rent during the term of Settlement) should be conferred on some, while ordinary or 'conditional' (shartíya) occupancy-rights were conferred on others[1].

The detail of these rights will more naturally be recorded under the head of 'Tenures.' The rights were secured by the document—signed by the málguzárs, and, of course, binding them—which was one of the records of Settlement, called the 'wájib-ul-'arz' (literally 'points necessary to be represented'). These still exist[2]. The status of tenants is now also secured by the Central Provinces Tenancy Act IX of 1883, of which more will be said hereafter.

§ 1. *General Reflections on the Málguzárí Settlement.*

The foregoing considerations will illustrate the remark that the 'MÁLGUZÁRÍ SETTLEMENT'[3] is one which 'combines features from Bengal with features from the North-West.' The Bengal feature is the artificial conversion of 'málguzárs' (whether old pátels or revenue-farmers) into proprietors of villages. The North-Western feature is, (1) the Settlement of the revenue in a lump-sum for the entire village—which, in revenue language, has become a 'zamíndárí' village (i. e. a landlord-tenure by one man, or by a group of his sons and successors)—and (2) the careful measurement and survey of the land, the record of all classes of rights, both as regards proprietors and tenants. In the Central Provinces, the grant of the proprietorship to málguzárs is now—regarding it as a measure of uniform applicability—almost universally admitted to have been a mistake. Not only has an actual raiyatwárí system been adopted in certain tracts, as presently mentioned (see p. 438, post), but the Government has applied the best remedy in its power, by taking the utmost care of subordinate rights, as fortunately it was most fully entitled to do by the guarded terms of the proclamation conferring proprietary rights. In all cases there has been a more or less liberal recognition of the old cultivators, either as plot-proprietors —'málik-maqbúza,' i.e. persons having proprietary right as far as their own holdings are concerned—or as occupancy-tenants. And, even then, the other tenants have not been left to be rackrented; they have been protected by law as regards the enhancement of their rents; and the number of 'tenants-at-will' has been reduced to a minimum—being chiefly such tenants as are employed on the proprietor's home-farm, or on new lands cultivated under special contract since the first Settlement[1].

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[1] These terms were used with reference to the doubt whether Act X of 1859, which was put in force, would be continued permanently or not. It was intended that the best entitled tenants should be 'absolutely' protected—no matter what formal change of law occurred: others were left dependent on what the law might eventually be.

[2] In 1885, a volume of translations of specimen forms of wájib-ul-'arz, adopted at the Settlements of 1863-75, was printed by Government.

[3] *Report on the Moral and Material Progress of India*, presented to Parliament, 1882-83 (printed 1885), p. 112.

The 'málguzárí' Settlement, therefore, presents this feature—*that we have here a system of landlords, with tenants over a large proportion of whom they have no power of enhancement or interference*[2].

§ 2. *Other Features of the Settlement.*

'Next to the grant of the proprietary right,' writes Mr. Fuller, 'the most distinctive feature in the orders under which the [last] Settlements were made, was the great reduction in the share of the assets to be taken by Government.' In the Sagár-Narbada districts, 66 per cent. had formerly been taken; but now, the 'Sáháranpur rules of 1855' (incorporated in the later edition of the celebrated *Directions* of Mr. Thomason) were declared to be applicable to the assessments. These 'limited the demand of the estate to 50 per cent., or one-half of the *average net assets*,' with the caution that 'it is not meant by this, that the revenue of each estate was to be fixed at one-half of the net average assets, but that in taking these assets with other data into consideration, the Collector will bear in mind that about one-half, and not two-thirds as heretofore . . . . should be the Government demand.' The same rule was adopted for Nímár, except that there it was expressly stated that the half-asset principle should not be considered as absolutely prescribed [1].

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[1] The Land Acts define the extent of the lands entitled to the privileges of sir or home farm, and also limit the power of the proprietor to absorb all the new land. This will be described later.

[2] See vol. i. Chap. V. *Appendix* p. 383 (par. 44).

In Chhattísgarh and the Nágpur country, the orders (28th June, 1860) expressed that the 'true gross rental of each estate having been ascertained by careful inquiry, the Governor-General in Council would be disposed to allow the málguzárs, in all cases, at least 40 per cent. for expenses of management and proprietary profits, and to extend the limit, in certain cases, even to 50 per cent.

In Sambalpur these orders underwent great modification, owing to the peculiarity of the old system already mentioned.

At this Settlement also, a survey with maps and records, was, for the first time, carried out. The work was very rapidly, and not very accurately done, but it served its purpose originally.

§ 3. *Old Method of Assessment.*

I doubt if it is now worth while to recall, in any detail, the method of assessment adopted in the Settlements of

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[1] Nímár *S. R.*, § 236. Mr. Fuller points out that this order for reduction was partly due to the term *assets* being used in a wider sense, i.e. not only the actual income enjoyed by the málguzár for the time, but what it might be, when the rents were enhanced to a proper standard.

1863–75. But a general account may be given. The first step was to select circles ('chak'), where the conditions were fairly equal. In these circles certain classes of soil were usually selected[1].

General considerations suggested that, as a whole, the revenue could be enhanced, or needed reduction. In this way, regard being had to the revenue under former Settlements, there were pargana and village totals which could be assumed and then checked by the application of rates per acre for the different soils in each chak. It was at that time impossible to adopt completely the method of assessing on *rent*-assets, described in the chapters on the North-Western system.

The backwardness of cultivation, the large extent of waste, the habit of taking lump-rents on entire holdings —and those settled on anything but commercial principles —made the determination of rent-rates an uncertain and difficult business. The village rent-rolls were rarely satisfactory guides, and rates decided on after personal inquiry, could only be approximate. The general plan was that described as the 'aggregate to detail method' (see p. 43, ante)—suggesting, on general considerations, a total enhancement on the pargana, and then working backwards by distributing the total over the villages and over the holdings, till it appeared that fair rates were given by the proposed total. In order to test the rates, circle rent-rates and produce-estimates were used, as a check upon each other. The former were got for the different classes of soil, by analysis of rents paid in specimen villages in the circle, by personal inquiry, by returns of the rents paid in revenue-free estates; and in the later Settlements, by comparison with the rates already used elsewhere; the rates were also used as an indication of the rental which might fairly be obtained by enhancement. The produce-estimates gave the outturn of each crop upon each kind of soil, the Government share being rarely above one-sixth. From these data the assessment was determined, with allowance for the circumstances and revenue-history of the village, and for the other general considerations which universally guide the assessing officer.

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[1] When these were used, there were four: (1) black soil, (2) lighter black soil, (3) light shallow soil more or less mixed with stones, (4) sandy or stony soil of poor quality. In a few districts these were used both under irrigated and unirrigated; in others, irrigated land formed a class by itself. In Nimár, land was assessed on its unirrigated aspect and a water-rate added for irrigation.

The jungle-produce of the waste allowed to be included in each estate, was regarded as an asset. For prospective cultivation of culturable waste, a separate assessment was not recorded; but, in some cases, a small rate was added per acre of waste likely soon to be broken up. It happened, however, that jungle-produce had but little value at the time when the first Settlements were made; the country had not been opened up by roads and railways; there was consequently no market [1].

Mr. Fuller gives the following explanation of the different 'rates' calculated out and used as checks or means of comparison:—

'It will be well to allude here to the character of the various considerations which were used by Settlement Officers as guides in fixing the revised revenue. These may be enumerated as—

(1) The soil-rate or revenue.
(2) The plough revenue.
(3) The produce revenue.
(4) The average incidence of revenue per cultivated acre.
(5) The existing assets as returned by the patwáris.
(6) The supposed or corrected assets.
(7) The existing revenue.

'These guides are by no means enumerated in the order of their importance. Those on which some officers placed most reliance were the three mentioned last—

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[1] I am informed, however, that this was not always the case. In the Bhandara district, there are cases in which the assessment is high as compared with the cultivated area; and the increase was due to allowance for the value of the produce of the waste. Cases, again, have been mentioned to me in which the jungle-produce afterwards became so valuable as to cover, or more than cover, the entire revenue-payment.

'(1) The "*soil-rate rental*" or "*revenue*" was obtained by multiplying the cultivated area under each soil in a village, by a rent-rate or revenue-rate which was assumed to represent its real annual rental or revenue value. The scale of soil-rates varied a great deal in the case of different villages, and as a rule the first step towards this calculation was to throw the villages into groups, or "chaks," for each of which a different scale of rates was adopted.'

This rate, I may add, appears to have been worked out in most districts, and to have been in general use; it was obtained by various calculations of what was paid in the past and what probably would be paid in the near future. The other rates were worked out apparently chiefly to check the soil-rate, and to justify it in the reports.

'(2) The "*produce-revenue*" was the revenue obtained by taking a share of the annual village produce as calculated from the area under each crop and its average outturn and value.

'(3) The "*plough-revenue*" was obtained by multiplying the number of ploughs in a village by a figure which was supposed to represent the average annual rental payable by a plough, and taking half of the result to represent the revenue. The multiplier was as a rule obtained merely by dividing the rental of the "chak," by the number of ploughs in the chak. It therefore worked by applying to a particular set of circumstances an average which was partly based on that set of circumstances, and was therefore to some extent an illustration of arguing in a circle. So far too as the "soil-rates" were derived from averages of existing rents (as in most cases they professedly were), their use is open to the same criticism.

'(4) The use of the "*average incidence*" of the revenue was to compare the village with the "chak" as a whole. The revenue proposed for the chak was divided by the total cultivated area of the chak, and the same process was gone through in the case of each village in the chak and the results compared. The guide was a very rough one.

'It will be noticed that the use of the two last guides implied the framing of a revenue for the chak before the framing of a revenue for the village; in fact, it implied assessment on the Maráthá system of from "aggregate to detail."

'(5 & 6) The "*existing assets*" were the assets as shown in the village papers of the time, and the "*supposed assets*" were the assets obtained by examining the village papers and raising the rent recorded against the málguzár's home farm or any privileged tenants, to a figure justified by competition rents paid in the village.

'These guides were for the most part prescribed by Colonel Hector Mackenzie in 1862, but the use which was made of them was very unequal; some Settlement Officers religiously turning to them each in turn for a justification of their proposals, whilst others openly rejected most of them as absolutely useless.

'It will be observed from the above, that the "assets" on which the assessment was to be based were to be the "real assets" and not merely the "existing assets"; or, in other words, a village was to be assessed according to the rent which the proprietor *ought* to receive if the tenants paid up to the full letting value of their land. It is obvious that an assessment on this assumption would justify in many cases a considerable increase in existing rents; and it was accordingly provided that so soon as an assessment was announced operations should be undertaken for facilitating the "re-adjustment of rents." An authoritative enhancement of rents by the Settlement Department was not permitted, and it was expressly laid down that "rents must be left to adjust themselves." The new assessment was announced to the málguzárs and raiyats, and they were then directed to settle amongst themselves the rental enhancements which could be fairly made, and when they had come to a decision, it was recorded by the Settlement Officer[1].'

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[1] Very little was, however, done, and the enhancement of rents was inconsiderable. The matter appears not to have received much attention and was left to subordinates. But in fact the revenue was very light, and over a large area of the province, there was actually a decrease in revenue, so that the málguzárs did not require any assistance in raising rents.

§ 4. *Results of the Settlement.*

The results of the Settlements show that, in a considerable number of districts, rent-rates varied enormously, without any apparent reason, except the favour of the málguzár or his necessities, according as his village was held at a low rate or had been run up to a higher figure by enmity or competition.

§ 5. *Percentage of Assets.*

The percentage of the 'corrected assets' taken for Government varied considerably. In some cases it may seem high; but it is very difficult to state really what it was, because in the older Settlements the assets were so loosely calculated and defined.

The only result that seems certain is, that the incidence of the revenue on each acre of cultivated soil was everywhere low, and in some districts very low, whatever the percentage was made out to be.

In the Ságar districts, the incidence is 11·2 annas on the acre. The percentage of assets taken by Government was 54 or 51 per cent., according as we take the 'gross' revenue, including, that is, revenue assignments, or the net revenue, that is, the amount actually payable to Government. In Dámoh, where the incidence is 10·8 annas per acre, the percentage is 60, or 56. In Mandlá, it is 65 per cent., although the incidence is only 2 annas 8 pie per acre! In Nímár, the percentage given is 75, and in Wardhá and Nágpur 80, yet the incidence per acre is 11·1 annas in Nágpur, and only 9·7 annas in Wardhá.

This fact led to a good deal of correspondence about the applicability of the so-called 'half-assets rule' to the Central Provinces Settlements. This will be better dealt with when we come to speak of the new method of Settlement adopted at the present revision, under which the first to come were the *Chhattísgarh* districts; the rest will be gradually settled up to 1897.

§ 6. *Résumé of the First Settlements.*

Before describing the new method devised for the Settlements *now* being made, I cannot do better than conclude this notice of the first regular (and now expired) Settlements, by quoting a popular and clear account of the older method given in an article in the *Pioneer* (March 14th, 1889):—

'At former Settlements the idea was to assess by valuation or appraisement. The Settlement Officer had the lands of a village measured up and classed. He then framed for each class of soil (or in some cases merely for the whole area taken in a lump) a rate which seemed to express its revenue-paying capacity, and by multiplying the areas by his rates he obtained the revenue which was *primâ facie* fair. Assessment in those days went principally by judgment. The rates were obtained —or justified—by *à priori* reasoning of a kind not readily followed by outsiders, having reference to the average produce of the land and the share to which the State was on abstract grounds entitled, and often starting from no firmer basis than the traditional "Rájá's sixth." Comparatively little stress was laid on the income actually derived from the land by the people in possession. Indeed, it sometimes happened that an estate was assessed to a revenue which exceeded the whole of the income derived from it by the proprietor, and which reduced his profits to a minus quantity. This is of course an extreme case, but the revenue demand not unfrequently left only a very small margin for proprietary profits. The theory was that the State fixed its revenue irrespective of the income which particular proprietors, by good or bad management, might secure. It is true that in some Settlements the rents paid by tenants received very particular attention, and were analysed with the greatest care. But the object in view was not so much to use those details of income as a basis for assessing the estates to which they related, as to turn them to account in justifying the *rates* which were adopted for groups of villages. Hence it was usual for detailed rental inquiries to be made in specimen villages only; and it seems generally to have been assumed that, owing to understatement on the part of the proprietors, it would be almost impossible to ascertain the income in all cases.

'It must not, however, be concluded that the Settlement Officer followed mechanically the results of his revenue-rates. These results were always liable to modification from one or other of a variety of considerations. Some of these considerations were based on definite facts. If, for instance, a village was actually paying more than the revenue-rates yielded, its revenue was not necessarily reduced. But the considerations which exerted most influence were of a general nature, connected with the ability of a village to bear enhancement, arising from its security from, or liability to, accidents of season; the poverty or well-being of its proprietors and similar circumstances, the discovery and appraisement of which depended on the Settlement Officer's local inquiries and judgment. Whatever be the method of land-revenue assessment, the judgment of the assessing officer must always be an important factor. But in former Settlements the judgment of the Settlement Officer was not merely used as a corrective; in the form of a generalization as to fair revenue-rates, it constituted the very basis of his procedure. The merit of this system was its logical completeness. Land was made liable to revenue in accordance with its hypothetical revenue-paying capacity, without regard to the system of management which was followed by particular proprietors. An assessment on income is always open to the charge of being an assessment on industry, and the work of Settlement Officers of the past was at all events free from this imputation. But the system was practically unsatisfactory owing to the grave inequality of its results from the proprietor's point of view. This is no doubt partly to be accounted for by the energy or apathy of particular proprietors; but there is reason to believe that it was frequently due to the practical impossibility of arriving, on *à priori* grounds, at a fair valuation of land.'

Before proceeding to describe the new system of Settlement for the revision of those last current, I had better take the opportunity of giving brief information as to the important question of the treatment of the waste lands. This was done once for all at the first Settlement, and is therefore stereotyped. After that, I will deal with the *present* method of Settlement, under the head of—

(1) The legal provisions of the Land-Revenue Act regarding Settlement.

(2) The Survey.

(3) The rules and practice of assessment.

SECTION III.—TREATMENT OF WASTE AND FOREST LANDS AT SETTLEMENT.

§ 1. *Large Areas of Waste belonging to the State.*

In such a province as the one we are describing, this question was sure to be of first-rate importance. Not only are there great ranges of hills full of forest, but vast areas of waste land everywhere.

From what has been said of India generally (Vol. I. Chap. IV. Sec. VI. § 18), there can be no doubt that the unoccupied waste belongs to the State, and has always been so treated. This is true of all hill-ranges and wide extents of jungle country. Where, however, the waste is in the vicinity of inhabited villages, the area is locally known by the name of the adjoining village, and the question may be more doubtful. No doubt the people would use as much of it as was conveniently situated for grazing and for getting firewood and timber for building or for agricultural implements. But their *use* of the natural products does not imply ownership of the soil. Hence in all Revenue-Acts the right of Government to deal with the waste is acknowledged, subject, of course, to just rights of user.

In the Central Provinces, such a right would be more than usually prominent, when we reflect that the cultivators had hardly any acknowledged rights, even in their own cultivated holdings.

§ 2. *Treatment of Estates under Chiefs or large Landowners.*

The Maráthá districts having been founded by conquest on the territories of Karkú and Gond Rájás and chiefs in some parts, and on estates of Hindu Rájputs in others, there were relics of these systems surviving, in the fact that certain chiefs (or rather their descendants) still retained various estates of different sizes. These were respected by our rule. In the Ságar and Narbada territories (more under the influence of the principles of the North-Western Provinces), the chiefs, locally called Taluqdárs, were made proprietors of their own private villages, and were given only the superior right over the other villages. Otherwise, the revenue was settled village by village. In other parts of the province (those that escheated in 1854), the chiefs' estates were called Zamíndárís (and sometimes jágírs), and were differently treated. Sixteen of the larger ones were recognized as Feudatory States, and are, technically, foreign territory. In them Government takes no revenue, but receives a tribute; and, of course, all the wastes and forests belong to the chiefs.

In the minor estates, a Settlement was made, the details varying; the forests and waste were in general left to the 'Zamíndár,' but under various restrictions, which I will presently notice. All this will be systematically dealt with and placed on a regular footing at the revised Settlement.

These estates principally occur in four groups:—

(i) the Sátpurá group, including the jágírs of Hushangábád and Chhindwárá (one of them, the Makrái chief, is a feudatory);

(ii) the Zamíndárs of Bálághát, Bhandárá, and Chándá, who hold the wild and hilly country between the Waingangá river and the Chhattísgarh plain;

(iii) the Chhattísgarh chiefs whose estates cover the hills and jungles that surround the plains of Ráipur and Biláspur[1];

(iv) the Sambalpur chiefships[2].

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[1] Of these, seven are feudatory—Kawardhá, Saktí, Khairágarh, Nandgáoñ, Kankér, Bastár, Chhúikhadán.

[2] Of these, also seven are feudatory — Káláhandí, Patná, Sonpur, Rehrákol, Bámrá, Sárangarh, Ráigarh.

What we are here concerned with is to notice the treatment of the forest and waste land.

§ 3. *Forest in Zamíndárí Estates.*

The original idea at the Settlement was to exclude and reserve, excess waste in Zamíndárí estates, exactly as was done in the ordinary málguzárí villages. But this did not prevail; and in the end, the proprietary rights, which were formally granted to each Zamíndár, were recognized as extending to the whole of his estate, forest and cultivated. The *sanads*, however, contain provisions intended to secure the estates against wasteful felling of timber[1]; moreover, it was determined that the forest portions of these estates should be settled separately from the cultivated portions, the land-revenue being fixed for terms of three years only, so as to be periodically subject to revision in case of wasteful management. Full effect as to this policy was only given in the case of the Bhandára and Bálághát Zamíndárs, but the policy was to be enforced at the new Settlements.

The opening of the railway works has made a considerable change as regards these forests. Hills covered with timber that were once useless for want of a means of transport to market, are now available. And in some cases the illiterate Gond chiefs found it impossible to resist the temptation to sell whole hill-sides to contractors, who, in one case at least, cleared many miles of country, leaving the greater part of the timber to rot on the ground.

The Land-Revenue Amendment Act in 1889 made provision for these cases. Section 124 A now provides that in any estate where the terms of Settlement bind the proprietor to manage his forests properly in accordance with 'rules or instructions prescribed by any Government Officer,' and he neglects the rules, the forest may be taken under direct management. The costs will be borne by the proprietor, but the net profits will be made over to him.

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[1] For example, see the rules regarding the Ráipur and Biláspur chiefs (Chándá *S. R.*, section 324, p. 180).

Contracts, leases, and incumbrances on the forests will be voided during the management[1].

Section 46 of the Act, as amended, also enables the separate assessment on forest lands (above spoken of) to be framed in the form of rates chargeable on the results of management in each year.

§ 4. *Allotment of Waste in ordinary Village Estates.*

In ordinary village estates (as well as in mu'áfí and úbári villages) the rule devised in 1862 was (as in the Panjáb) to grant a certain area of waste to the village for extension of cultivation and use as grazing ground, &c., and reserve the rest to Government[2]. The rule was that an area equal to 100 per cent. as a minimum, and 200 per cent. as a maximum, on the area of cultivated land should be given over to the village and included in the estate[3].

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[1] Mr. Crosthwaite explained the amended section thus:—'At the last Settlement, proprietary rights were in some cases granted in forest land, but the rights of the tenants to the use of the forest and to cut wood for the repairs of their houses and for agricultural purposes were reserved, and generally the proprietor was bound by the record-of-rights or his *sanad*, to manage the forest properly and in accordance with the orders of the Government. With the extension of railways and the opening up of the country there has been a great rise in the value of timber and forest produce, and consequently a difficulty has been for some years experienced in compelling the proprietors to act up to their engagements and to preserve their forests. Section 123 of the present Act was intended to meet this difficulty; but the power to fine a proprietor two hundred rupees for cutting down a village forest is ineffectual. The proprietor can probably make ten times the amount of the fine by disregarding his obligations and cutting and selling the trees in the village forest. The destruction of these forests by the proprietors is contrary to the agreements, either express or implied, made by them at the last Settlement; it defrauds the inhabitants of the village of their right in the forest, causes a loss of revenue to the Government, and may produce injurious effects on the rainfall and water-supply.'

[2] It is hardly now of interest to record in detail the earlier orders. They are stated in Mr. Fuller's note in *Book Circular* No. XX of June, 1887. The proclamation of 1854 reserved only large stretches of waste and forest area, and this very partially; for where such waste was nominally included in a local *mauza*, it was so to remain, and the portion not really wanted by the village was to be separated off and held by the málguzár not as his property but as a farmer or thikadár for Government (or, as Mr. Reade said in 1855, 'in trust for Government'). In 1860, however, attention was called to paragraphs 17 and 18 of the proclamation of 1854, and it was held that this did not warrant large areas of waste not wanted by the village, being given over as part of the estate. Then came the definite rules of 1862 spoken of in the text.

[3] This was called the 'dochanda'

Where the villages had already been mapped (as in Ságar) the excluded portion was shown by a mere line on the map, which was not, and perhaps could not be, really demarcated on the ground. In other districts (as Narsinghpur) the exclusion was effected by recording, as the property of Government, certain whole plots of land which had been measured as separate numbers; and as the boundaries of such plots followed natural features on the ground, the limits of the excluded waste could be more easily identified. Where the Settlements were only taken in hand after the rules were issued, the excluded portion was simply not mapped at all; the village boundaries only included the cultivated land and that portion of waste allowed as part of the estate of the proprietor.

This last method is characterized as the worst, because, before measurement, the officers really did not know exactly what they were including or what they were reserving. The result has been that in Chándá and elsewhere, proper areas of waste were not left to the village, or not left in suitable position[1].

(twice as much) rule. See Appendix A to the old *Settlement Code*, head 2, and Nicholls' *Digest of Circulars*, vol. ii. Section XX, p. 595.

[1] It is sufficient to put in a footnote a brief allusion to the cases where, in settling jungle tracts, it was not a matter of dealing with waste attached to known *mauzas*, but of finding small scattered hamlets in the midst of a great expanse of jungle. In such cases to have applied the 'dochanda' rule would have only been to increase the village to a small plot. And there were cases also where the cultivation shifted, a plot being cultivated one year and abandoned the next in favour of a new plot.

The following is the text of the orders as they appear in the *Digest*, of Circular LXXII of 1862:—'But these are . . . the instances where we should be specially careful to adhere to the principles adopted, of "not relinquishing large areas of forest and waste to individuals incapable and unwilling to reclaim them." Accordingly, when a Settlement Officer meets with a village, represented, say, by a few Gond huts, and a few acres of cultivation, in the depths of a forest extending over several square miles more or less, of hill and dale, he must not relinquish the proprietary right in the whole forest, because, from the circumstances above instanced, and others similar to them, he cannot exactly decide on the rule by which the right should be confined to closer limits. It must be remembered that, although Government is willing to recognize proprietary right on the basis of possession, yet possessed land is defined as a rule to be cultivation, *plus*, on the maximum scale, 200 per cent. of uncultivated land; and that there is no authority for granting proprietary rights on other grounds.

'There appear to be two ways of settling such cases:—Firstly, offer to recognize the proprietary right

The blocks that were excluded from villages were, naturally, free from rights of user[1].

It should be pointed out that this reservation was not made with the policy of keeping large manageable areas of forest, so essential to the well-being of the country. On the contrary, the idea was that these areas should all be sold and colonized, perhaps by European capitalists. The rules for sale of waste lands, in 1862, however, met with very little success. In 1866, 'clearance lease rules' were issued on modified terms. Some considerable areas were leased under these rules. But in 1872 the procedure was suspended (experimentally) for a time; and in the end the wiser policy of retaining the Government title was established.

In Nímár, Hushangábád, and Mandlá there were special rules giving facilities for the extension of cultivation where necessary[2].

It was not till the Forest Act was passed (1878), that the greater part of the available waste was declared 'Reserved (i. e. State) Forest.'

The circular of 1887, already alluded to, points out that the enormous area treated as State Forest, is not all suited for, or wanted for, forest purposes; and, whenever there is

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in the cultivation, *plus* an appropriate amount of uncultivated land; if the cultivation be scattered, act similarly, arranging the scattered portions as chaks or outlying plots of the main portion, and exclude the remainder. Secondly, if this is objected to, because the cultivation shifts its locality, or on other grounds, there seems to be no alternative but to reserve the superior proprietary right. Frame the assessment as if the excess of waste were excluded; guarantee possession to the landholders as inferior proprietors or tenants, but reserve the power to include the grant of the superiority of the land in their possession, in the grant of any portion of the excessive waste adjacent, which may, at any future time, be made to a third party; providing, however, at the same time, that they, the existing landholders, or their heirs, shall have the offer, which they now refuse, again made to them before any such grant be concluded.' It would appear that in cases where this was done, the area was afterwards included in State Forests and then came to be looked on as 'patch cultivation inside the forest' (*Book Circular XX of* 1887).

[1] I do not, of course, speak of concessions which may have been allowed, or to such special rights as were granted, in the Bálághát district, to certain settlers, who, in fact, contract to pay their revenue on the understanding that they are to get free jungle-produce for their own use, and free grazing in what is now 'Reserved Forest' under the Forest Law.

[2] See *Book Circular* No. XV, dated 13th October, 1883.

a real demand for extension of cultivation, a portion can be given up. The same can be done where originally there was too little waste left to villages; or where (as is inevitable in large demarcations rapidly effected) the boundaries first laid down prove inconvenient. The great advantage, however, of securing the forest area, while it is still abundant and free of perplexing rights, is, first, that a stop is put, by the legal act of 'reservation,' to the growth of new rights and claims; also that large and valuable areas are not hastily given away, as they have so often been in other provinces, without any adequate examination of their contents, or any prospective study of their value. Land can now be systematically given up (as in Mandlá) when required, without impairing the compactness and regularity of the permanent forest, and without parting with waste land that is more valuable for timber growth than for anything else; at the same time the agricultural development of districts like Chándá, where more than half the area is forest, is not prevented.

§ 5. *Rules for Waste and Forest included in Village areas and other Estates.*

Rules have been made to prevent injury to the country by the wasteful treatment of forest lands where such form parts of the area included in the village estates. They are recorded as terms of the 'wájib-ul-'arz.' Certain valuable trees are not to be cut without a reference to the Tahsíldár. Where poles of sál, shísham (*D. latifolia*), and teak, are cut, one such of good growth, is to be left on each 100 square yards. Mohwá trees (*Bassia latifolia*) are to be respected. Subject to these rules, clearing for *boná fide* cultivation is not prohibited[1]. These rules being by agreement, there was originally no specific penalty for their breach; but 'vigilant care on the part of the District Officer and Ṭahsíldárs, should suffice to ensure a general adherence to them.' Sec. 124 A now applies equally to such cases whether in Zamíndárí or in málguzárí estates. If the Settlement agreement provides for the management of forest, and the conditions are not observed, the Government may assume the management of the forest and annul all sales, leases, &c., which militate against the proper management.

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[1] The rules in force at the time I am writing, are appended to Circular XIV of 1868, Nicholls' *Digest*, vol. i. p. 185. It is understood that these rules have recently been revised (1889) by a Committee, but it is highly probable that the matter cannot be settled without resort to legislation.

Act XVIII of 1881, sec. 124 A.

§ 6. *Legal Provision regarding Waste.*

The allotment of the waste having been already accomplished under the rules laid down, all that was required in the Revenue Act was to provide that if, in the course of any Settlement, there appear tracts of land which have no owner (i.e. which do not appear to be lawfully owned or to have been definitely and properly included in a mahál or estate under the arrangements which I have described), a notification should be issued inviting claims. If it is found that some persons had enjoyed certain rights, but never had exclusive proprietary possession, then a portion of land may be given to the claimant (or some other form of compensation), so as to get rid of his rights over the rest. This is very nearly the same as the North-Western Provinces law.

Secs. 40–2.

§ 7. *Law of the Old Settlements.*

The earlier Settlements were made before the Land-Revenue Act was passed; hence it was necessary to provide in Chapter VII, that they were to be taken as if they had been made under the Act[1]. In order to secure

Chap. VII, sec. 86.

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[1] It is unnecessary for the student to trouble himself about the details of the legal basis of the older Settlements. It is sufficient, for practical purposes, to say that the procedure was prescribed by a number of circular orders and rulings which were collected together in what is sometimes called the *Settlement Code* of 1863. But the collection was neither precise, systematic, nor complete. The *Statement of Objects and Reasons*, prepared at the time of the Revenue Bill being introduced, says: 'Throughout a considerable portion of the country, there is little or no law regarding the Settlement; and the collection of revenue beyond what may be considered to be established by ancient usage. In some parts it is doubtful how far any written law applies; and elsewhere the only law is either the 'spirit' of certain old Regulations of the Bengal Code, or half-forgotten rules which owe their binding force to the Indian Councils Act.'

a reasonable finality to the decision of matters determined by these Settlements, it is provided that all claims to proprietary right in land, which were expressly decided to be invalid or inferior to the claims of others in whose favour an award was made, are now barred, and no civil suit will be allowed to reopen the question. Where the award was to a widow, it is to be taken that the widow has no greater right than she would have, under her own personal law, if the award had been in favour of her husband, and she had thereon succeeded to him by inheritance. A person whose claim was not expressly decided, may resort to the Civil Court, and prove his claim on certain grounds defined. The last clause in the chapter relates to certain claims of 'plot-proprietors' (málik-maqbúza) which were doubtfully or erroneously dealt with—namely, their right to share in the waste land appropriated to the estate in which the plots lie. The Chief Commissioner is, in fact, empowered to put such matters on a proper, equitable footing, the record notwithstanding.

Sec. 87

CHAPTER II.

THE NEW SETTLEMENTS.

SECT. I.—THE LAW OF THE SETTLEMENT.

§ 1. *Legal Provisions regarding Survey and Settlement.*

Sec. 27. THE Land-Revenue Act (XVIII of 1881), as amended by Act XVI of 1889, empowers the Government to notify[1] that a *revenue-survey* is to be made in any local area. This gives the survey-agents the power of entry on the land, of erecting marks, and doing 'all other acts necessary for making the survey.'

Sec. 28. And when a local area has to be *settled*, the Chief Commissioner (with sanction of the Governor-General) again issues a notification defining the area and specifying the operations (e. g. whether assessment or a record-of-rights, or both).

Secs. 29-38. Sec. 39. The appointment of Settlement Officers and their powers (including the appointment of a Settlement Commissioner) are also provided for. When the Settlement is over, its legal termination is known by the fact that a notification declaring completion is issued.

§ 2. *Boundaries.*

Sec. 45. The Act gives the usual power to the Settlement Officer to require the proprietor to erect such boundary-marks, as he (the Settlement Officer) thinks necessary, to define the limits of lands, mahâls, and fields, i.e. both interior and exterior boundaries. The allusion to 'mahâls' is with reference to the fact that it may be desirable to assess different parts of a property in different ways, and to have a separate assessment on each; as, for instance, in an estate where there is much forest-land; here the cultivated area may form a mahâl assessed in one way, and the forest may be another mahâl separately assessed in another way. If the See sec. 43. proprietor does not obey the order within the fixed time, the Settlement Officer may erect or repair such marks, and may recover the cost against the person, or, if against several persons, in such proportions from each as he thinks fit.

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[1] By 'notify, notification,' &c., notification in the official *Gazette* of the province is, of course, intended. In such cases as that first mentioned, the notification is made known on the spot by vernacular notices conspicuously posted.

Nothing is said about *survey* beyond the simple and sufficient provision, already mentioned, viz. that when a local area was notified as under Settlement, that, *ipso facto*, gives the survey party the right of entering on the land, and of carrying on their work.

§ 3. *Assessment in its Legal Aspects.*

Chapter V deals with this matter. Every mahâl is to have its separate sum assessed on it. Section 47 is important Chap. V, sec. 47. as requiring the Governor-General's sanction to the 'instructions' which the Chief Commissioner gives to the Settlement Officer—

(*a*) As to the *principle* on which land-revenue is to be assessed;

(*b*) as to the sources of miscellaneous income to be taken into account in the assessment.

Section 48 provides that all *land* in the mahâl is a source Sec. 48. of income to be taken into account. To this the following are the exceptions:—Land sold under Waste Land Rules revenue-free; land redeemed; land which is excluded as See sec. 44. being the site of a town, or land from which the owner can derive no profit and which is marked off accordingly; land which is held revenue-free; and land which is exempted by authority from assessment.

Agreeably to the Village or Mahál Settlement system, the Sec. 49. law prescribes that the engagement is made with the proprietor or with the whole body of proprietors (through their representative 'lambardár') of the mahál. A mortgagee in possession is settled with in lieu of the proprietor who has Sec. 49, last clause. thus excluded himself[1]. If there are inferior and superior Sec. 49. proprietors, both interested *in the whole estate*, the Act provides that the Chief Commissioner is to determine with whom the Settlement shall be made, and how the proprietary profits are to be shared. If the superior is settled with, a sub-Settlement must be made with the inferior Sec. 50. (through representatives called 'sub-lambardárs') on behalf of the superiors. If the Settlement is made with the inferior, the Settlement Officer determines whether the dues of the superior are to be paid to him direct by the inferior, Sec. 51. or through the Government treasury[2].

Sec. 50. It will be observed that the Act draws a distinction as regards sub-Settlements, between estates where there are two classes of proprietors co-existing, i.e., each with a certain interest *covering the whole estate* (as, e.g. a Taluqdár as superior owner, and the original village-owners who have yet maintained their position as inferior proprietors over the whole), and those where there is only one recognized general proprietor of the estate, but still certain individuals are málik-maqbúza or *proprietors of their individual holdings under him*. The term 'málik-maqbúza' does not include inferior proprietors in the former sense[3].

Sec. 55. A special provision in these provinces, enables the Settlement Officer to make an order in writing, that a proprietor who fails to sign his qabúliyat (accepting the Settlement) or to signify his refusal within a reasonable time, shall be deemed to have accepted.

In case of a refusal to engage, if there is only one class of proprietor, the estate may be held direct by Government, or settled with any one else; but the proprietors cannot be excluded beyond a term of thirty years. If the proprietors are a body and some refuse, the Settlement of the whole may be offered to the sharers who do not refuse; and there are special provisions for making (in certain cases) the lands of the recusants into a separate estate, which is settled separately. Sec. 57.

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[1] This is so in all provinces.

[2] All these principles will be recognized as marking the system. They are all to be found in the Revenue Acts of the other provinces where the 'North-Western Provinces system' is followed.

[3] See the Act; definition clause (section 4, No. 10). A sub-Settlement *may* be made (when necessary) for málik-maqbúzas (Act, section 64).

The Settlement Officer is to report his 'rates and method' of assessment for sanction to the Chief Commissioner, under rules made for that purpose; and the Chief Commissioner's sanction is necessary before the assessment is offered to the proprietor. Even when the offer is made, it is subject to a final confirmation by the Governor-General in Council, and may be revised by the Chief Commissioner at any time before this final confirmation is received. Subject to this action of the Chief Commissioner and of the Governor-General in Council, the acceptance of an assessment binds the proprietor to pay it from such date and *for such term* as the Chief Commissioner may appoint. Further, if when the term expires, no new assessment is ready to take effect, the assessment so accepted will run on, until a new assessment is made. To the last obligation there is an exception, when *all* the málguzárs commit themselves to a written notice delivered six months before the expiry of the term.

§ 4. *Legal Requirement as to Record-of-Rights.*

The next step is the Record of Rights; Chapter VI contemplates the Settlement Officer ascertaining and recording the proprietors in possession, and their shares and rights *inter se*; he is also to record the situation and extent of all lands held by them as 'sír' (this, because of the privileges that attach to 'sír' land, as will appear presently). Chap. VI

As the revenue is payable through the revenue-headmen, called 'lambardárs' (or double-tenure villages, sub-lambardárs) it has also to be recorded, in order to prevent rivalry, and extortion of double payments, through which of such lambardárs or sub-lambardárs, each co-sharer, or sub-proprietor, or plot-proprietor, is to pay.

§ 5. *Peculiar feature of Central Provinces Law—Tenants' Rents are settled as well as Revenue.*

Sec. 72. A very noteworthy provision is in Section 72, when taken in connection with the provisions of the Rent Act of 1883. This greatly enlarges the Settlement Officer's duty, and really imparts to the Central Provinces Settlement much of the character of a raiyatwárí Settlement. By this section, the Settlement Officer has the duty of recording the status of, and the rents paid by, *all* tenants occupying land (not necessarily residing), within the mahál or area assessed separately to one sum of revenue. This alone would not be very different from other provincial laws, but the section must be considered in connection with the provisions of the Rent Law, which I shall describe afterwards, when dealing with the *Tenancy Act*. It may, however, at once be noted that the Settlement Officer, besides recording existing rents, has further duties in fixing, enhancing, and adjusting them, consequent on the assessment.

§ 6. *Revenue-free Rights.*

Secs. 73-4. It is enough to mention that the Act provides for the usual inquiries as to revenue-free tenures, free, that is, (*a*) as against Government, (*b*) against the málguzárs, i. e. the proprietors have to pay the revenue for the grantee.

This subject had not the far-reaching importance it had in Bengal, Madras, and Bombay, where immense 'alienations' had taken place, and great numbers of claims were put forward based on fraudulent or unauthorized titles. I have often before remarked that the Maráthás had been averse to revenue-free grants, and generally put a 'quit-rent' on those they did allow. There are rules, and inquiries have been held, about revenue-free tenures in these Provinces as elsewhere; but the matter never gave any trouble[1].

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[1] Though in the district of Sambalpur, where the Uriya Brahman abounds, the Rájá had been induced to give away large areas in mu'áfi,

§ 7. *Rights of Proprietors to certain Cesses, and Customary Rights.*

The Act specifically requires the Settlement Officer to settle questions about *village cesses* (e.g. rights of proprietors to certain dues from shopkeepers and non-proprietors settling in villages); also about *customary dues* to headmen, and village servants, and the corresponding *service* rendered; rights in the '*common land*' of the village and in the *village site*; rights relating to *irrigation* and *easements*, and any other matters which the Chief Commissioner may direct to be recorded in the 'Administration Paper' (*wájib-ul-'arz*).

§ 8. *Form and Authority of the Record of Rights.*

All these rights as they appear from the inquiries made under the Chapter VI, are to be described in a record; and the Chief Commissioner is to prescribe the documents of which such record is to consist as well as its form. The record is in the custody of the District Officer; entries Sec. 82.
therein are presumed to be true until the contrary is shown. There are express provisions as to a civil suit being Secs. 83-4
brought to contest entries in the record, which gives authority to the Civil Court, otherwise excluded by section 152[1].

SECTION II.—THE NEW METHOD OF ASSESSMENT.

§ 1. *Method adopted for the New Survey.*

Having thus briefly noted the main legal provisions on which the new Settlements are based, I have next to

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&c. (about one-quarter of the land-revenue).

[1] As to the alteration of this record, after deposit, by agreement or in accordance with the result of a suit under section 83, or because the record entry does not correspond to a Settlement decree or order on which it was founded, or because, being so founded, the decree or order was afterwards altered on revision or on appeal, see section 120, also section 121.

The record being thus secured in point of accuracy and permanence as a starting-point, the local establishments will have copies of the maps and other necessary documents in the same forms, and keep these correct up to date, by noting all changes (under the supervision of the Land Record Department).

consider the practice and the rules regarding assessment. But just a few remarks have to be made on the question of the method of surveying the estates that is now employed, in so far as it differs from the older system.

The survey for the last Settlements was, as I have said, done in the old method. The Revenue Survey gave the boundaries of villages, but worked absolutely independently of the Settlement staff, which had to supply the interior, or field-to-field survey—why, is not apparent. The Settlement Officer used his patwárís where they were capable; and where (as in the Nágpur districts) they did not exist, he indented on the North-Western Provinces for 'ámíns' or trained native surveyors.

The survey was very rough, but it was quickly made, and not costly; whatever its defects, it practically answered its purpose for a first Settlement in a country where the population was only in exceptional areas dense, and where a very large percentage of the revenue-paying area was waste and forest.

Naturally enough, what with original defects, with the great extension of cultivation since the formation of the province, and the changes that have taken place, the *new Settlements cannot dispense with a re-survey.*

It was a question of expense and of other departmental considerations as regards the new surveys, whether a professional 'cadastral' party should do the entire work or not.

The demands of the expiring Settlement districts may thus be represented:—

(A) The three districts of the Chhattísgarh division (area 8946 square miles) which awaited Settlement, and have been completed at the date I am writing.

(B) The district of Mandlá and part of Jabalpur[1] (4049 square miles), and a part of Chándá, the Settlements of which fell in between 1887 and 1889.

(C) Fourteen districts, of which the Settlements fall in between 1893 and 1897 (30,577 square miles).

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[1] The Bijeragogarh pargana.

As arrangements were effectively made for re-organizing the district staff of *patwárís* and their supervisors—the kánúngos, their utilization for the re-survey and for the improvement of the records, could be counted on. It was no light task to weed out the incompetent, and to organize and instruct a staff of about 4000 patwárís; but it has been accomplished under Mr. Fuller, the Commissioner of Settlements. Consequently, the survey consists of two portions:—

(1) The preliminary traverse-surveys, giving village boundaries, and fixed points, and a system of triangles, made by the professional survey (Surveyor General's Department) with scientific correctness;

(2) the filling in of field details, and the preparation of field records, &c., by the local patwárís.

The organization above spoken of could not be completed in time to follow out this system in all cases.

The orders, therefore, were for a professional cadastral party to set to work, for the whole survey of the Biláspur district (in group A), and a summary re-Settlement (re-adjustment of the revenue only) was made in B[1].

The Mandlá district is at present undeveloped, and a summary revision will suffice; such patwárí measurements of the highly cultivated portions as are necessary, will be made, and the district at large left till the conclusion of the re-Settlements. And so with Bijeragogarh (north-east corner of the Jabalpur district) and the Chándá villages.

In the bulk of the districts, the system described will be carried out. The following is Mr. Fuller's brief explanation of it:—

'As at the previous Settlement, the village lands are being surveyed professionally, as well as by the local patwárís, but with the important difference that the professional survey furnishes the basis of the patwárí survey, instead of being conducted independently, and being merely of use as a check. The work of the professional surveyor is confined to the determination of convenient points on the village boundary, and within the village area by means of the theodolite and chain; that is to say, it is confined to traversing and does not extend to field-survey. A traverse is run round each village, with stations about thirty chains apart, and if the village is a good-sized one, this is supplemented by one or more sub-traverses running across the village lands. These operations result in the construction of a skeleton map of each village showing the position of a series of theodolite stations lying round the village boundaries, and within it. The traverse-maps are then made over to the patwárí, who, by chaining from one station to another, and across from line to line, plots in the details of the actual village and field boundaries. The method of survey is precisely that of the professional cadastral survey adopted in the North-Western Provinces; but instead of the whole work —plotting as well as traversing—being performed by experienced professional agency, it is divided into two operations, one of which, that performed with the theodolite and chain, and requiring accurate angulation, is carried out by professional surveyors, while the other (the field-plotting), which is comparatively simple, is effected by the patwárís. It is claimed for this system that it is extremely economical and that it is, at the same time, very accurate. As the work of the patwárís is confined within the traverse lines laid down by the professional map, errors affecting the village total area are almost impossible, and as the effect of the subtraverses is to subdivide the village off into sections, an error, should one occur, is localized and does not affect the whole of the subsequent plotting. The method in which the all-important matter of area-calculation is effected is that followed in professional cadastral surveys, i.e. areas are calculated mechanically from the maps by the planimeter and acre-comb instead of by the more clumsy fashion of mensuration as has been the practice in previous patwárí surveys. It should be added that as under this system each patwárí surveys his own circle, not only is the fullest use made of local knowledge, but the patwárís, in keeping their maps up to date, after the conclusion of the Settlement operations, have the advantage of dealing with maps which they have themselves made, and with the details of which they are practically acquainted.'

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[1] When circumstances point to an enhancement, it is, of course, a great loss to the State to have the old assessment running on for long after expiry, as the increase, which has become due, is not levied all the time we are waiting for the survey and re-Settlement; a temporary or summary readjustment of the revenue is, therefore, a convenient resource.

§ 2. *Modern Plan of Assessment.*

We are now in a position to consider the interesting, and, in some respects, novel plan of assessment adopted in the new Settlements.

The basis of the system is the modern (North-Western Provinces) principle of taking a share of the *actual* rental-receipts of the landlord after allowing for the value of lands not rented, or held by the landlord himself.

But in the Central Provinces, there are peculiar circumstances, partly resulting from the natural condition of things, and partly from the creation of a proprietary right in the village málguzár, and the consequent limitation of the rents of his 'tenants' and the privileges secured to them.

In the first place, rents are very low compared with those in the North-Western Provinces, and are, as a rule, lump-rents fixed by holdings and not by fields. Soil rent-rates are almost unknown, and the relation of rents to areas is not generally ascertainable with precision, since the lump-rent of a holding is based on a general consideration of its productiveness, depending not only on its area, but on the character of the various soils which it includes.

In the next place, there is this marked peculiarity; instead of there being landlords with tenants, a large proportion of whom (i. e. excluding those who have any special *status*) are left to settle their relations by contract according to the natural laws of supply and demand, we have here the bulk of tenants very little under the control of the landlord; in other words, there is virtually a legally fixed sharing of the emoluments of land between an artificial landlord and the village cultivator under him.

Under the Rent Law (Act IX of 1883), the rents of all absolute occupancy-tenants, and those of all 'conditional' occupancy-tenants, *must be fixed by the Settlement Officer*;

and as these tenants hold no less than 61 per cent. of the tenant-area in the Jabalpur, Narbada, and Nágpur divisions (i.e. three out of the four Revenue divisions of which the province consists), the proportion of the rentals which have to be authoritatively fixed is very great. Practically also, it will fall to the Settlement Officer to fix the rents of even the ordinary tenants. For the málguzárs can only enhance by a civil suit, and therefore, at Settlement time they will seek the assistance of the Settlement Officer to get the rents of ordinary tenants fixed for them. The settlement of rents has, in these provinces, therefore, become a function of Government; and the rental on which (as the 'assets' of the estate) the Government revenue-assessment is based, will be the rental which the málguzár actually receives. It will no longer be necessary for an Assessing Officer to assume (or calculate) as the assets of an estate, a rental value which may, or may not be realized, when the rents of tenants come to be adjusted for actual payment from the beginning of the next agricultural year. The rental value which the Settlement Officer makes out according to his rules for assessment, will be given effect to by him. It need hardly be pointed out what a radical change this will bring about in the position of the proprietor, and how greatly it secures him against loss from the hastiness of the Settlement Officer or the recusance of his tenants. Under the former system of Settlement, the share of the Government was a fixed sum, while the share of the proprietor was in a great measure what he himself could make it. In future, the proprietor's share will be as fixed and secure as that of the State itself. From these considerations it follows that the great object is to have rents as equable as possible.

Act IX of 1883, secs. 54 A. and sec. 15.

§ 3. *Objects of the New Assessment and Rent-Settlement.*

It may, therefore, be stated that the main objects of the new system are,—(1) to equalize rents, and (2) to raise them to what is a proper rate, in view of the great rise of prices, increase of cultivation and of population, and growth of other material advantages which have occurred since the old Settlements were made.

As regards (1) it is notorious that the rents have, from various causes, been hitherto falling very unequally. As regards (2) it is comparatively easy to find out a fair standard rental, for each village, in a group where the general conditions are similar.

But to understand how the rent rates actually fall in different villages, and thus to raise them all equally and fairly, it is necessary to have some means of reducing the area of all varieties of soil to a number of units of equal value capable of comparison one with the other.

§ 4. *Method of Comparison.*

The following is the method adopted as described by Mr. Fuller:—

'In calculating what would be a fair rent for a tenant's holding no attempt is made to argue by induction, from such considerations as the amount and value of the produce, the cost of cultivation, and the share of the net profits which might on theoretical grounds be reasonably taken as the rent. *The rent now paid on each holding is taken as the starting-point* for calculating the revised rent to be made payable upon it; and the *amount of enhancement imposed is determined by comparing the present rental with the standard rental taken to be a fair one in the case of the particular village.* The determination of the standard rental for the village rests partly on a comparison of its rental incidence with that of other similar villages, and partly on general considerations, the principal of which is the extent to which rents have risen in the village during the currency of Settlement, compared with the extent to which they might fairly have been expected to rise looking to the increase of cultivation, and the rise of prices. The system therefore principally works through comparison, and great trouble is taken to make the comparison a fair one. The real incidence of the rental of two villages cannot, of course, be fairly compared by means of the all-round rate at which it falls per acre, for the use of this rate would rest on the assumption that both villages were alike, not only in the classes of soil which they contain, but also in the proportion in which these classes entered into the cultivated area; and such an assumption would rarely be a true one. To make a just comparison of the rental incidence of two villages it is necessary to reduce their rent-paying area to, so to speak, a common denominator; and this is effected by multiplying the area under each class of land by a factor representing the relative *productiveness*[1] of the class, and by dividing the rental by the number of 'soil-units' so obtained. If, for example, the productiveness of black soil to red soil is as 20 : 12, and of two villages, each with a rental of R. 1000, and a rent-paying area of 1000 acres, one (A) contains 300 acres of black soil and 700 acres of red soil, while the other (B) contains 600 acres of black soil and 400 acres of red soil, the real incidence of the rental will be calculated as follows:—

A.
Acres.
Black 300 × 20 = 6000
Red 700 × 12 = 8400
14,400 soil-units.

$$\text{Incidence of rental per soil-unit} = \frac{\text{R. }1000}{14400} = 1\cdot11 \text{ anna.}$$

B.
Acres.
Black 600 × 20 = 12,000
Red 400 × 12 = 4800
16,800

$$\text{Incidence per soil-unit} = \frac{\text{R. }1000}{16,800} = 0\cdot95 \text{ anna.}$$

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[1] 'Relative productiveness'—or better, it might be, 'relative value to the tenant.'

The precariousness or certainty of yield is taken into consideration in estimating fertility and value. Supposing, for instance, that in normal years, two soils were in proportion as 9 : 6; but in years of scanty rainfall, the produce of the first is secure, because of irrigation, and the second, hardly returns the seed sown. Supposing also that years of deficient rainfall occur so often that it can be calculated that in every five years there will be two of failure; then the comparison of the two soils should not stand as 9 : 6, but on a proportion which is the mean of the averages of each of the five years.

The writer of the able *Pioneer* articles, which will presently be alluded to, also points out that the net produce not the gross is looked to in making comparisons:—

'Thus if the ratios of gross outturn on four classes of soil . . . are found to be as 10 : 8 : 5 : 2, and if it is further found that the cost of seed and cultivation is, say, a $\frac{1}{10}$th part of the average crop on the highest class of soil, the figure representing this cost, which does not, of course, vary perceptibly with the class of soil, should be subtracted from each of the numbers of the series, leaving the resulting factors as 9 : 7 : 4 : 1. In the assessment of the higher classes of soil this consideration is of no great practical importance, but on coming to the lower classes it will be seen that the ratio 5 : 2 is very different from that of 4 : 1. A neglect of this principle might thus lead to a considerable over-assessment of inferior soils, a danger which is probably the greatest of the many with which the path of the Settlement Officer is beset.'

'Village B is shown to be paying at a rate which is really lighter than that of village A, although the all-round acreage rate is precisely the same in both cases.'

§ 5. *Classification of Soils.*

'The first step towards framing a standard rental for a village is the classification of its cultivated lands. The detail in which this classification must be effected depends, of course, on the heaviness of the rental. In tracts, for instance, where the rental falls at no higher rate per acre than eight annas, so much detail is not required as in a tract where the rate per acre is one rupee: and hence the classes into which lands are grouped in the Ráipur and Biláspur districts are less numerous and complex than those which have been used in the Chándá district. Moreover, in Ráipur and Biláspur, holdings consist, as a rule, of scattered plots, and include land of all qualities in something approaching a like proportion, and this, of course, renders very elaborate classification less necessary than it would be in places where holdings in the same village differ very greatly from one another in productive capacity. Hence it has been considered sufficient in these districts to class the land mainly according to its soil, making, however, a distinction between "embanked" and "unembanked" land[1]. Separate classes are also used for land which is irrigable and which lies close round the village site, but the area included under these heads in these districts is comparatively small. I am to add, however, that greater complexity is being introduced into the classification, and that during the current season land is being classed according to its position, and the lie of its surface, as well as according to its soil. It is to be understood that the distinctions which are drawn in classing land are all distinctions which are well known to the people, and for which terms are in common use. No attempt is made to class land on any novel principles.'

§ 6. *Soil-Factors.*

'The next step is to decide on the figures which may be taken to represent the relative values of the soil classes *inter se*. These figures or, as they are called, "soil-factors," are determined by the result of careful local inquiry supplemented in most cases by numerous crop experiments. It may be explaine that to arrive at the relative value of a number of classes land is a far easier task than it would be to arrive at a scale actual rates which might be used for their valuation. Peopl will readily give information regarding the relative value one class of land compared with another, when they would b most reluctant to afford a clue to their actual rental value.

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[1] The embankment is to secure retention of water.

'The villages are next thrown into assessment groups, an if in any assessment group a class of land is much superior o inferior to the average, its factor is modified accordingly.'

§ 7. *Enhancement of Rates, how effected.—Standard Unit-rate.*

'The present "unit-incidence" of the rental of each village in the group is then calculated by multiplying the area of each soil-class by its factor, adding together the "soil-units" thus obtained, and dividing the present rental by the total number of soil-units; and the unit-incidence of the group as a whole is calculated in the same way. *A standard unit-rate for the group is then determined by raising its unit-incidence to a figure which is justified by an examination of the unit-incidences of individual villages in the group,* with special reference to the amount of rent enhancement which has taken place in them during the currency of Settlement, contrasted with the amount of enhancement which might fairly have been expected having regard to the extension of cultivation, the improvement of communications, the increase of population and the rise of prices. It is then determined how far the rental of each village should be enhanced having regard to (1) its unit-incidence compared with that of other villages and the standard unit-rate for the group, and (2) the amount of enhancement which has actually taken place during the currency of Settlement on grounds other than the extension of cultivation, that is to say, the amount by which the *rent-rate* has risen or fallen during the currency of Settlement[1]. When the amount of enhancement which may fairly be imposed has been determined, *the unit-incidence of the village is raised by a corresponding*

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[1] In the *Pioneer* of January-February, 1889, there appeared a series of useful articles on the new system. On this passage in the text, the writer observes:—'We confess that we do not understand why, if the system of soil-unit incidence is to be relied on, so complex a method of enhancement is necessary; and it may be added that if it is necessary, it seems greatly to diminish the value of the system itself. The capacity of a cultivator to pay his rent may be increased in four ways; by possession of a larger area of land; by increased produce from

this land, a result due to his own labour and skill; by readier sale for his produce; and, finally, by higher prices for that produce. Of these four grounds on which a claim to enhancement may be based, the first two are individual, while the two last are general. The point on which we wish now to lay stress is that by reducing the land to a common denominator and calculating a unit-incidence the first two grounds have been provided for, and that as regards these grounds for enhancement all that apparently need be done is to compare villages where the unit-incidence is low with those where it is high, and to ascertain whether there are any circumstances in these villages, apart, it should be carefully noted, from the area and character of the land, which justify the difference of incidence. If there are not, there seems no sufficient reason why the lower rate should not be enhanced to the higher, subject to the considerations which have been previously referred to. The only circumstances under which further inquiry would seem to be needed is where the highest unit-incidence in the group is found not to suffice, when applied generally, to secure a perceptible enhancement, and as this may (for we have no facts before us on this point) be frequently the case, it may be well to deal with this possibility in greater detail.

Suppose then that in a given group of villages the highest unit-incidence is, say, 3, while in no village is it less than 2·5, and that, consequently, an all-round increase up to 3 would only give an imperceptible enhancement. We will further suppose that there are several villages in the group where the incidence is already 3 or close to that amount. In this case all that would appear to be necessary would be to ascertain the existing incidence in a series of individual holdings, especially those of unprivileged raiyats, in those villages where the all-round rent-rate is highest. If in holding after holding so examined, the present unit-rate were found to be 3·5, 4, 5, or more, and if it was further found that these rates were being paid without difficulty, it would seem, so far as we understand the system we are discussing, to be perfectly justifiable to take a mean of these rates, say 3·5, and to apply it to all the villages in the group, with due allowance for such personal or local circumstances, other than those connected with the area or quality of the land, as might make further moderation necessary in specific cases. It may, of course, be urged that we have failed to deal with the case where few or no holdings yield on analysis higher rates than those ruling in the group and where it is accordingly necessary to enhance, not up to a given standard of actual payment, but according to some rule which has to be devised by those on whom the work of Settlement falls. We incline to think, however, that in the present state of the local Tenancy Law such cases must be rare, and we very much doubt whether, if on any given area they were found to exist, any general scheme of enhancement would be advisable.

For the great majority of existing cases the system of soil-unit incidence appears to furnish a convenient and effective method of assessment; and without further local facts to guide us, we fail to understand why a plan should be resorted to which first fixes a standard unit-rate based on actual and possible rent enhancement, and then proceeds to reverse the process by calculating the possible enhancement with reference to the standard unit-rate and the actual rise in rent-rates which has taken place since the previous Settlement. It is possible, however, that there are reasons for distrusting the unit incidence as a guide to assessment which are not *amount and the revised unit-rate thus obtained when multiplied with the soil-factors for the assessment group, gives the actual rent-rates per acre* which will yield the enhancement anticipated—which will in fact bring out the standard rental alluded to above.'

§ 8. *Use of the Rates does not render Individual Variations impossible.*

'It will be observed that this system admits of considerable differences between the valuation of one village and that of another in the same group. In settling the unit-rate of a village, regard is paid to the circumstances of the village (the chief of which are its present unit-incidence and the extent of the enhancement which has taken place in its rental since Settlement) as well as to the unit-rate which might fairly be used for the group as a whole; and hence a Settlement Officer is not obliged to follow his grouping to its logical consequence and value all the land in a group at the same rates.

'The system, it will be seen, provides that the rates which are used for the valuation of land in each village are suitable rates having regard to the circumstances of the village; and it further provides that the rent which is imposed on each holding in a village, is a suitable rent having regard to the present payment made on the holding. The area of each holding is carefully tabulated according to the various soil-classes, and a rental is deduced for it by means of the rates, which may be taken as the standard rental of the holding. But the rental which is actually imposed may differ considerably from the standard. If the present rental is in excess of the standard rental it does not follow that it will be reduced, and if the present rental is much below the standard rental it is not necessarily enhanced up to it; but the Settlement Officer in proposing a rent may take a figure between the two. In fixing individual rents as well as in fixing village rent-rates, care is taken to provide for no larger enhancement than can be made payable without risk of hardship. If, for instance, a considerable proportion of the area of a holding has fallen out of cultivation owing to the misfortune of the tenant, this is considered

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at first apparent, and it may also be that in some cases even a detailed scrutiny of individual holdings fails to furnish rates high enough to yield a perceptible enhancement.'

to be a ground for assessing the holding to less than a full rent. It may be mentioned here that, as we are not assessing on prospective assets, land which is permanently out of cultivation is not assessed. Moreover, in the case of the poorest soils, which require periodic resting fallows, *new fallow is exempted from assessment up to a maximum area* equal to one-third of the total area of the soil included in a holding. It is to be added that the rents fixed on paper in this way are not accepted as absolutely final till they have been announced to the people, and the officer to whom the work of rent announcement is entrusted has power to alter a rent as sanctioned, if there is good reason for doing so. But as the total rental for the village may certainly be taken as a fair one in its aggregate, when it has been worked out in detail with so much care and elaboration, no changes made at the time of rent announcement are permitted to affect the total, and any reduction made in the sanctioned rent of one holding must be balanced by additions made on other holdings[1].'

§ 9. *Further Examination of the Soil-unit System.*

It will be well to consider somewhat more in detail whether this 'Soil-unit System'—this process of determining units of equal rent-value—was adequate for the proposed purpose, and whether the units are really units of equal rent-paying capacity on which an equal assessment can justly be placed.

The matter was so clearly put in the *Pioneer* article already alluded to, that I cannot do better than make another quotation:—

'The power of a cultivator to pay revenue on a given area of land is based on his net income from that land, and an analysis of this net income shows that it depends on the following factors:—(*a*) The average quantity of produce in proportion to the seed sown; (*b*) the certainty of obtaining this produce; (*c*) the nature of the crop; (*d*) the money value of the produce. That all these factors actually affect the result will be obvious from the following illustrations. In the Settlement Report for the Bilāspur district, where Settlement work is now in progress, it is incidentally mentioned that in former days, when communications were undeveloped and trade dull, years of plenty did not greatly increase the cultivators' money wealth. Grain existed, it is true, in large quantities, but it could not be kept for an indefinite period, and as there was little or no sale for it, it had next to no money value. Here we find a large produce with a small money value, and consequently little ability to pay high money rents. As regards the nature of the crop, it is obvious that it makes a great difference to the cultivator whether he sows his plot with cotton or with sugarcane, or whether he grows wheat or rice, where the permanent demand for the one is strong and for the other weak. Finally, as regards the certainty of the produce, it may be noted that certain classes of soil are frequently very fertile when irrigated, but that they produce little or nothing without irrigation.

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[1] The Italics in the extract are, of course, not in the original. They are inserted to fix attention on certain salient features.

'In a year of sufficient rainfall, high-lying rich land of this kind may yield plentiful and valuable crops, while in other years, when the rainfall is untimely or scanty, the return is barely equal to the expenses of cultivation. Land, on the other hand, which is artificially irrigated, yields a crop year after year with a high degree of certainty, while the outturn is of comparatively uniform quantity. A cultivator is therefore far better able to pay a fixed annual rent on the certain produce of his irrigated land than on the precarious crop of possibly richer soils where the yield is dependent on a sufficient rainfall.

'The factors which express the relative rent-paying capacity of the various classes of land in a village must, therefore, embody the results of inquiries on all these points, and only in so far as this is done will the units which result be units of equal assessable value. There are, however, several features in normal village agriculture which render the work of classification considerably easier than it would at first appear to be. In the first place most districts are distinguished by staple crops, and where there is a rotation of these crops the rotation is comparatively uniform and varies but slightly with the class of soil; moreover, the proportions in which those crops are sown in individual holdings are also fairly constant. In the second place, where an especially valuable crop, such as sugarcane, is grown, the area allotted to it does not perceptibly change in succeeding years, and where it does change it tends rather to increase than to diminish. The locality of the plots no doubt varies, but the total acreage devoted in any year to such a crop and the portion of this area allotted to the málguzár and to the several cultivators, will generally be found to show but little change from year to year, and still more rarely to show any marked decrease. In determining, therefore, the classes into which the village area is to be divided for the purpose of calculating factors, the first thing to be done is to determine the staple crops of the tract concerned. If this is done, and if a uniformity of rotation and distribution is ascertained to exist, all that is needed is to fix the relative productive capacity of the various soils under these crops, and, this being settled, to work out factors for the more valuable crops, such as sugarcane and garden produce. As regards the former, the statements of villagers, when tested and confirmed by sufficiently numerous experimental crop cuttings, will generally suffice to furnish reliable and satisfactory data; and it is one of the great advantages of the system which we are discussing that, as is acutely pointed out in the Government papers on the subject, cultivators are much more willing to give information regarding the relative productive power of different soils and the comparative outturn of different crops than they are to specify the actual outturn on a given area, or to state the money value of the produce reaped in any individual field. Relative information of this kind cannot, they think, be used to enhance absolute payments, and they are on this account generally perfectly willing to give the result of their experience as to the relative outturn on soils of different situation or quality.

. . . .

'For land under staple crops, a set of factors thus based on the relative net crop-bearing capacity of the different natural classes of soil, supplemented by a subdivision of each natural class into irrigated, manured, and non-irrigated fields, and completed by a careful revision of the factors with reference to the certainty of the crop in each case, would, so far as we can judge, suffice to give area-units of real equality as regards revenue-paying capacity, and on which an assessment could be based with every assurance of accuracy and moderation.

'There remain to be discussed those lands which are not sown with staple products, but which are devoted to crops of exceptional value, such as sugarcane or garden produce. In the correspondence before us it is nowhere stated how the factors for these crops are calculated, nor is it mentioned whether separate factors are used for them. It is, however, especially necessary to touch on this point, because it is here that the principle of relative outturn seems to afford no aid. To obtain information regarding the relative value of crops of wheat or rice on different soils, presents, as we have seen, but little difficulty; but to ascertain how much the average value of an acre under sugarcane exceeds that of an acre under wheat, is only possible by actual measurement of the outturn, and by estimating the selling value of the crop and the cost of seed and cultivation in each case. This is, however, apparently the only case in which the comparative principle fails to give the necessary data; and when once the fact is realized, the difficulty of determining the value of the net product of an acre under sugarcane as compared with that of an acre of the highest class of soil under staple crops, and of fixing a factor accordingly, is by no means insuperable, and only requires that the Settlement Officer should himself make the necessary experiments and accept no values or figures on hearsay. In fixing the factor for these crops, consideration would, moreover, naturally be paid to the fact that the cultivation of sugarcane or garden crops requires no inconsiderable industry and skill, and that as it is not desirable to place any check on the growth of these qualities, the factors should not be pitched so high as the figures showing relative crop value might otherwise justify.'

§ 10. *Mr. Fuller's Observations on some of these points.*

To some of the criticisms contained in the foregoing paragraphs it is only proper to append Mr. Fuller's own general remarks, by way of comment:—

'It may be objected to this system that it does not serve to give ground for an *all-round* enhancement—an enhancement, that is to say, which would affect the highest paying as well as the lowest paying villages. For such an enhancement we have obviously only *à priori* reasoning to go upon. But the system enables us to bring this reasoning to a convenient focus. If *à priori* arguments, based on the rise of prices, extension of communications, &c., suffice to show that the *highest paying village* should bear an enhancement of 25 per cent., the system renders it possible to graduate the enhancement with nicety amongst the remaining villages of the group. The fact is, however, that so long as we have Bunnia proprietors[1] (and they are rapidly on the increase) we need not be afraid of the lack of villages with a sufficiently high standard of actual payments to guide our enhancements. Another objection that has been made is that under the procedure, as described in the official papers, the "unit-incidence" taken as the standard of comparison is not that of the highest paying villages but an average. It is true that an average incidence is struck and made some use of; but its bearings do not extend very far, and the enhancements ultimately rest on the actual incidences of the highest paying villages. This must not, of course, be taken to mean that all villages are enhanced up to a uniform standard. Such a course might be logical, but it would certainly result in failure. We are dealing not only with land but with the men who hold it; and the paying capacity of these men is influenced by a hundred and one considerations, often indeed extending to distinctions of caste. Men who have become indebted must be treated leniently, although their debts are the result of imprudence. By paying very low in the past they may have made profits to which they are not entitled, but they are on this account not one whit better able to bear a very heavy enhancement.

'When all is done to make rent and revenue assessment as precise as possible, there will always remain a wide margin for the intelligence and discretion of the Settlement Officer. The weak point in the system is, of course, the difficulty of framing the "factors"—the figures, that is to say, representing the *relative* value of different soils, which are used as multipliers to reduce areas to a common denomination of soil-units. The results of actual crop-cutting experiments are useful, but can never be sufficiently numerous to be really reliable; and we have in the main to trust to information given by the people and to an analysis of existing competition rents. In these provinces rents are as a rule not very high, and great accuracy in the factors is not essential; but with rents as high as they are in some parts of the North-Western Provinces the difficulty would be much increased. Under any circumstances, however, the determination of the factors is not as formidable as the task of framing "fair rent-rates," as the latter involves the determination of *absolute* as well as of *relative* values.'

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[1] 'Baniya,' &c. proprietors of the money-lending and mercantile class, who have foreclosed mortgages, or bought land as an investment.

§ 11. *Practice of Village-grouping.*

It should be remarked that the *factors* or numbers which represent the relative value of soils are made out for an entire pargana or tahsíl. But the exact same figures must not be followed in each *group* of villages within the pargana, nor indeed in any particular village within the group.

The groups of villages are made with reference to their containing estates having the same general advantages, in respect of being near or far from market, of 'climate,' i. e. general security of production, and of the class of agriculturists holding them.

When one group differs from another, it may be sufficient to raise or lower the factors as applied to the group, or else to modify some and leave out others; and so if there is anything peculiar in the individual village.

§ 12. *Soil-classification.*

The soil-classification first of all takes the naturally distinct kinds of soil, as *Kankar*, *dorsá*, *matási*, &c., and then subdivides them according as they are embanked or unembanked, irrigated or unirrigated, 'gaurása' (i. e. receiving the village drainage, manure and refuse),— or not, and so on: and a different factor is arranged and reported for each soil and its several subdivisions or classes. After some experience of this practice it was decided further to include in the classification a notice of the *position* of the land, as indicated by well-known vernacular terms, as this was a matter which affected value and productiveness. Thus some land gets moistened by percolation (tarhatti, pajra, &c.); some is moistened by forming, during a part of the year, the bed of a tank (dabrí); in rice-lands some are distinguished as lowlying and receiving much surface drainage, some are on a slight slope, others on a steeper slope, so that the water runs off very rapidly. In non-rice lands, some, being of even surface, will grow wheat, others, being uneven, will not. In making the classification, such distinctions are taken note of, either by making a distinct head in the table of factors, or by indicating a *plus* or *minus* alteration in the rental to be made in lands where the distinction occurs: either plan may be followed according to convenience[1].

§ 13. *Practice in working out Factors.*

After determining the soils and classes or kinds of each soil to be adopted in the pargana or tahsīl and in the village groups, the actual calculation of *factors* is done by observing the relative value as ascertained by different methods. For example, I have the *Report on the General Ratios* (or factor-figures) *adopted in the Ráipur pargana.* Here they worked out separate factors for each soil and its classes, and for each soil in each position (not using the *plus* and *minus* rental value method).

The primary distinction is into *rice-land* and land that *does not grow rice.*

The former might consist of 'Kanhar' soil ('black cotton soil') or 'dorsá,' a brown soil, which is also found in the black cotton soil country but *underlying* it: matásí, a yellow or flesh-coloured soil, usually devoted to rice; bhátá, highlying land which grows millet, &c., and only rice in

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[1] In the latter case we may have this form of table:—

Soil and position.	Area.	Rental value at average rate.	*Plus* or *Minus* for position.	Net Rental value.
	Acres.	Annas.	Annas.	
'Kanhar' soil in position, called 'Géhunhári'—i.e. it will grow wheat	10·25	205·0	+ 20·5	225·5
Ditto soil, which is 'tikára'—only grows millet	25·50	510·0	− 51·0	459·0

good years, and if embanked. The same soils may be found in non-rice land, and there is also 'Kachar,' a sandy soil not used for rice.

Each soil had certain peculiarities of position, viz.:—

Bahara[1] = land lying in a shallow drainage, channel, or depression.
Gabhar = level land of even surface.
Dadhá = land lying on a slope.
Tangar = high-lying, receiving no drainage.
Géhuṅhárí = corn land fit for wheat.
Tíkára = high-lying land of uneven surface.

The table of *factors* was made out as follows:—

RICE-LAND.													NON-RICE-LAND.							
Kanhar			Dorsá				Matási				Bhátá		Kanhar		Dorsá		Matási	Bhátá	Palka char	Kachar
B	G	D	B	G	D	Tn	B	G	D	Tn	D	Tn	Gh	Tk	Gh	Tk	Tk	Tk	Gh	Patpar tikára
24	22	16	20	15	12	8	20	14	8	5	6	3	20	14	16	10	4	2	18	4

Now, if we could find some villages where the *circumstances* were generally the same, only the *soils* different, and where moreover the area consisted wholly or principally of *one* soil in each, it would be easy, by comparing the rents actually paid in each, to see what, *in practice*, was regarded as the relative value: and, as a matter of fact, a few 'Kanhar' villages, 'Dorsá' villages, and Matásí' villages—i. e. where these soils were the *chief* constituents—*were* found. A comparison of rents paid brought out:—

Kanhar.		Dorsá.		Matásí.
20	:	16	:	13

Then again, they took the *opinions of agriculturists* as to relative values: and then they made a number of *experiments* as to yield of different staple crops on each soil in good and bad years: and they were able to compare factors made use of in an adjoining similar pargana (i.e. Biláspur), which were known to be fair; thus they obtained a number of ratios which, though not identical, were very much in general accord, so that after report and modification (if needed) by the controlling authorities, the above figures were accepted. In this pargana certain *percentage* additions were made for *embanked* lands, and therefore no separate column appears; but in other tables, 'embanked' and 'unembanked,' would appear in the columns; and the same was done for 'irrigated' land, and for that which enjoyed the advantage of manure from the village (gaurása).

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[1] In the table which follows, to save space, I have indicated these 'position' differences by the *initial letters*:—B for bahara; G for gabhar; Gh for géhuṅhárí; Tn for Tangar; and Tk for Tíkára.

§ 14. *Steps taken after the Factors are approved.*

When the factors are approved, then as the 'nikásís' or actual rent-rolls show the *existing* rental of the villages in the chak or group, the whole area can be reduced to soil-units of equal value, by the use of the factors, as already explained: thus the actual incidence of rent can be observed: and then, by comparison of the groups and their rentals and on general considerations, a *standard or central unit-rate* is worked out. For each village they next look to what the existing unit is and what the general increase in the area cultivated, and population, &c., has been, and how far the existing unit is an advance on the rate previous to the expiring Settlement; on these considerations a unit-rate for the village is selected (either above or below the central unit-rate), and this, with brief reasons for its adoption, is shown against each village in a tabular form. This represents what the existing rate might be fairly raised to in each case.

§ 15. *The Rent-rate Report.*

It will be well here to state, in abstract, the contents of a Rent-Rate Report, which is prepared for each *chak* or group, to apply and justify the rates spoken of in the last paragraph. I take the Report on Chak No. 1 (called Chattan) in the Mungeli tahsíl of the Biláspur district.

The printed report, commences by describing the chak, its situation and main features, its soils, its communication-facilities; next, its area is stated in a table showing the (total) area 'occupied' (under crop and fallow) and 'unoccupied' (groves, forest, jungle and grazing ground, rock, and hill; together with the area irrigated, number of wells and tanks, number of ploughs and of plough cattle. These figures are given as they are now, and as they were at the last Settlement. An excess of total area is explained to be due to error in the former measurement. The increase of cultivation is then discussed. Next the soils are stated and remarks made about the area embanked, and why it is that so small an area is *gaurása* or benefited by the village drainage and manure (Khárí is here the local term = gaurása). The area under cultivation is then considered and the increase under different crops commented on. Next we have a table showing how much of the land is held by the different classes of holders;—the proprietors, sub-proprietors or plot-proprietors, occupancy tenants and ordinary tenants. The payments of these are then discussed, and it is explained what has been the rise in rental due to extended cultivation, and what due to rise in rates. Then the 'assets' i.e. the income of the estate from rents, as shown in the 'Statement A,' is explained: this includes the rental value put on the proprietor's 'sír' and on mu'áfí land, as usual. The increase in the assets is thus brought out, and a comparison made with the last Settlement. It is then shown that an enhancement of 25 per cent. on the existing rents would be fair.

As regards *factors*, it is explained that the tahsíl factors are used with some slight modification to meet local peculiarities. Then follow the Statements; A (already alluded to), B, the factors adopted, and the important form C, which shows the rates of rent at former Settlements and at present, and the actual incidence per soil-unit as ascertained by the use of the factors. It is brought out that the incidence per soil-unit varies from 1·09 (which is the highest in the group of fifty-nine villages) to 0·31, which is the lowest. The *central* unit rate is 0·85, which it appears had been explained in detail in a former report. The average unit-rate of the old Settlement was 0·67. The Statement also contains two final columns showing the *actual* 'unit-rate' to be used for *each village*, and the reasons briefly stated. These individual village rates are all more or less approximate to ·85, in one case going up to ·95 (which was reduced by superior authority to ·90) and down to ·65 and ·60 in a very few cases. In the case of some few of the poorer villages, there is not a rise but a reduction; but there is a general rise in the rents, as might be expected, seeing the considerable increase in the cultivated area, and the assets generally.

§ 16. *Assessment Report.*

The *Rent-Rate Report* being submitted and sanctioned, the actual rents can be made out, as already explained, by an arithmetical process; and the figures so obtained can be modified in detail in any special cases; and then comes the final summing up of the assets of the estate, by making allowance for groves that are revenue free, for fallow, and by the addition of some value for 'sāir' or products of the jungle. The *Assessment Report* of the circle spoken of in the last paragraph, recounts the facts of the increase in the rental assets—how the tenant-rate had risen 15 per cent. (or, taking ordinary tenants only, 25 per cent.), and how cultivation had increased by 21 per cent.; so that the actual rental received had increased 50 per cent. and the total rental (assuming fair rates for *sir*, &c.) 35 per cent. The rental-rate could then be easily raised 25 per cent. (the unit-rate on the old figures being 0·67, it was proposed that the central unit-rate should be 0·85 as already stated). This would result (after the allowances and deductions that are made) in a rent enhancement of between 15–20 per cent., and would justify the existing *revenue* being raised 50 per cent. As a matter of fact the actual enhancements of rent were more in the nature of an equalizing of rates than a positive all-round rise. The total assets on the new rental are then exhibited, and it is shown that they have risen 56 per cent. At the last Settlement, the proportion of assets taken as revenue was 60 per cent.; but it was very unequal; in some villages falling below 50, in others rising to 70 per cent.; it was proposed to take 56 per cent. as the revenue (R 7292, on the assets, which, after enhancement, were R 13,113). This shows an increase of only 44 per cent. on the present revenue. By more equal distribution it will fall much more evenly. The moderation in the increase is shown by the fact that whereas the all-round *revenue* rate of the expired Settlement per acre, was R 0·5·1, under the proposed increase it would be only R 0·6·0, which, considering the increase in cultivation, and the great rise in prices, is very moderate indeed.

§ 17. *Proportion of the Assets taken by Government.*

The result of this system is to give a much more definite meaning to the word 'assets,' and to make these a very different thing from what they were under the old days, when an assumed *valuation of the land*, and not a consideration of the *income actually derived from it*, was the guide to revenue-assessment. Hence a very natural question arose whether Government could adhere, *under these new circumstances*, to a fixed rule that the land-revenue is to be about 50 per cent. of the rental.

We have already seen that this rule had a great influence in the former Settlements; but that, in spite of it, the term 'assets' is one which may have such a varied meaning, that in some districts a moderate assessment gave an apparent percentage very much in excess of 50[1].

Many interesting points arise[2] in the correspondence on this subject, but for practical purposes, I must confine myself to results. The rule, as a rule, has been abrogated, but this order is less an innovation than might be expected.

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[1] In the Mandlá district, for example, in the old Settlement the revenue-rate was at the extremely low figure R 0-2-8 per cultivated acre; yet the 'assets' were so calculated that the revenue (at this rate) appeared to be 65 per cent. of them.

[2] Among these questions, for instance, arises this: that where you estimate the assets, and leave the owner to adjust rents with his tenants under a law that allows him a sufficient power of enhancement on the ordinary commercial principles of landholding, there you can limit the share of the calculated assets to a fixed percentage in all cases. But, suppose that (as in the Central Provinces) the 'owner' is a person on whom the right has been conferred as a gift, and in so doing, the Government has carefully shared the benefit with his tenants, by *fixing* low rents for them for the term of Settlement: is the Government revenue to fall only as a percentage of the málguzár's share, or ought the benefited tenants to bear part of it? In the Raipur summary Settlement, for instance, they calculated the rental as what it *would* be, if the low rents of occupancy-tenants were full rents, and then took about 50 per cent. of that. But, if they had taken only the low rental, 50 per cent. would have given in gross, a very inadequate revenue.

For, after all, the half-assets was never a hard-and-fast rule: even in the North-Western Provinces, so much depended on the practical meaning given to the term 'assets' by the assessment proceedings. And in the latest orders issued in 1888, I find the Chief Commissioner only proposing 'that the percentage of revenue to assets should vary between 50 and 65, in individual villages. Less than a half should rarely be taken, and the maximum limit should be 65. In the assessments already sanctioned for the Ráipur and Biláspur districts . . . 60 per cent. has been taken as the maximum fraction.'

The Government of India[1] agreed in general, that the Central Provinces should be treated solely with reference to 'local conditions.' The '50 per cent.' rule 'is not conclusive anywhere, is least of all so in the Central Provinces, where . . . the proprietorship of the málguzárs was a recent creation of the British Government.' We gave them what they had not before, and it is quite right therefore to limit the profit of the gift to what is fair to all parties. The Government orders further say, 'as it is these tenants who have chiefly profited by the progress of the country since the last Settlement' (and it might be added have profited by the Government securing their fixity of tenure and rent) 'it does not seem wholly reasonable to obtain the increase of revenue due to Government, wholly or principally from the málguzár's share of the assets; or in other words, to appropriate the whole of the enhancement to Government, leaving the landlord practically a fixed rent-charge on the estate. The Government of India was of opinion, subject to further explanation, that the provisions of the law should be fully utilized by enhancing the rent of tenants with regard to this consideration. If, after this has been done, an assessment at half-assets on the rental of the old and new cultivation together, fails to give the usual proportion of increase on the old revenue, a larger share of the assets may be taken from the landlord.'

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[1] (No. 451 R., dated 24th August, 1887, Revenue and Agriculture Department.)

In reply to these orders, a very interesting letter was sent, explaining the method of assessment, from which I have already made an extract. Nothing was said in the way of 'further explanation' to modify the opinion that, by such enhancement as the law allows, the tenant should bear his share of the just increase.

SECTION III.—SUBSIDIARY QUESTIONS REGARDING THE SETTLEMENT.

§ 1. *Assessment of Improvements*[1].

New cultivation is not properly an improvement, so far as it is effected without any special outlay in bringing into use the inherent qualities of the soil. But it will have been gathered from what has been said, that our new assessments are on *actual* rents, so that a further increase of cultivation during the currency of the new Settlement, will go wholly to benefit the people.

Durable improvements are (1) embankment of land to secure water for rabí' crops; (2) irrigation works, viz. tanks or ponds, canals, permanent wells, and lifts on the banks of streams; these will be encouraged by exemption from assessment at the next *ensuing* Settlement. The new Settlements, and also future ones, will be for twenty years as a rule, so that a *minimum* exemption of twenty-one years, and a *maximum* of thirty-nine years, can be obtained[2].

'This plan may be a rough and ready one, but it would be workable, and fall in with the ideas of the people. It would be an easy matter for a Settlement Officer to ascertain whether an improvement had been made since the last preceding Settlement, as he would have the maps and records of the Settlement to go on. If it were found that the improvement had been made since the last Settlement, he would go no further in his inquiries, but would exempt it then and there. It would assist the people to realize the concession, and would, without doubt, strengthen their faith in it, were arrangements made for the *issue of certificates* to persons who, in future, made improvements of a permanent description, formally declaring such improvement to be free from assessment at the next Settlement. The staff of pátwarís and their inspectors would enable the Deputy-Commissioner to make all necessary inquiries without difficulty. . . . They would, of course, greatly assist a Settlement Officer in giving effect to orders of exemption.' '. . . As to the way in which practical effect should be given to the exemptions in the assessment, it will be easy to do this in the case of tenants, in a way they will readily understand, by under-classing their land for the purposes of valuation. In the case of the málguzárs, the limitation put on the share of the assets taken, will prevent their losing the benefit of improvements on their own holdings.' The Government of India has formally approved these rules[1], adding that 'in fixing the term for which exemption from assessment should be allowed, specially costly works should receive special treatment.'

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[1] There seems ground for believing that works of improvement of a large and costly character were oftener made under native rule than under ours. This is due to the difference of system. The 'Rájá' assumed to be owner of the soil, and to take what he pleased, so that he had it in his power to *give* away to favoured persons very valuable privileges of fixity of tenure and rent, in case any person consented to make an important tank or embankment. In Chándá, the construction of a tank was recognized as a title to the lessee to remain in possession. Most of the existing tanks owe their existence to this condition. The construction of smaller works, for the benefit of individual holdings, is, however, favoured by our system.

[2] E. g., a well made just *after* the new Settlement now being made would, of course, not alter the announced assessment, so the benefit obtained from it would run for this twenty years, and it would not be liable to be assessed at the *ensuing* Settlement either, thus getting thirty-nine years. A well, on the other hand, made during the last year of the revised Settlement would get its benefit for the twenty years of the next ensuing revision.

§ 2. *Distribution of the Assessments.*

It will be observed that under these Settlements, the distribution of the village totals (which are not ascertained in the lump, but by aggregating distinct area-rates) is not left to the people, as it necessarily is in the North-Western Provinces and the Panjáb. It is done by the Settlement Officer; and though in some cases complaints were made and the people were offered the option of re-adjusting the actual rates payable by each villager (irrespective of the calculated rates of the Settlement), this option was declined.

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[1] No. 105, dated 31st January, 1888.

§ 3. *Period of Settlement.*

The Chief Commissioner held that 'the experience of the current Settlement has been to discredit the fixing of the land-revenue in such a progressive province as this, for so long as thirty years.' The latter term is preferred in the North-Western Provinces, where the conditions are different, and where cultivation has fairly extended, and development is approaching its full limits. In the Central Provinces it is otherwise; cultivation has increased, and can still increase enormously; the opening up of the country by railways will completely revolutionize the economical conditions of the districts; so that to fix a Settlement for more than twenty years would be injurious to the interests of the State. The orders are to fix twenty years as the standard period, but to adjust it in each case with reference to the date of completion of the revision Settlements. It would be inconvenient to have all the districts falling in at the same time; and the periods will be so arranged, that the Settlements will fall in one after another, and thus the Settlement Staff will be able to deal with each at once, and not lose to Government the proper increase, because so many revisions falling due at once, all cannot be taken up. This modification will lead to some of the districts getting something under, and some a little over, the twenty years.

The Government of India has directed that the period for each Settlement should be specifically reported, and reasons given when the local area is proposed for Settlement; or if not convenient then, when the assessment is reported for the information of the Government.

§ 4. *Raiyatwárí Settlements.*

It should be remembered that *all* villages and lands in the Central Provinces have not been made over to málguzár proprietors. In the Chándá district a number of villages are settled with the *raiyats* direct; and as this system is likely to extend, direct provision has been made in the amended Land-Revenue Act.

I have already mentioned that when the waste areas were allotted to villages, there were a certain number of tracts in which it was not a matter of villages with adjoining waste, but of tracts of waste with small hamlets scattered through them. Here the waste-allotment rules could not be applied, and the villages were treated as holdings of *raiyats* under Government, the whole plot remaining as Government property. It is further probable that a *raiyatwárí* system will considerably extend itself in another way. All the surplus waste became district forest or State forest, but it is now recognized that a considerable portion of this had better be cultivated; and as settlers are found to take up the lands, *it is not intended to make proprietary villages, but to treat them on a raiyatwárí method.*

Sections 67 A to 67 I of the amended Act give the necessary legal provisions.

Settlement rates imposed on *raiyats'* fields (or, as they are called in the Act, 'survey numbers') may be either progressive, or may be according to the results of each harvest. The *raiyat's* holding may be relinquished as usual under *raiyatwárí* systems; it is heritable, but the power of transfer is limited: 'inasmuch as experience has shown, that the conferring of a transferable right on a *raiyat* proves too often a curse instead of a blessing. The *raiyat* is tempted to borrow money on the security of his holding, and loses his land [1].'

The amended Act also makes provision for a headman in *raiyatwárí* villages—for his duties and remuneration.

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[1] Speech of Mr. R. Crosthwaite in introducing the Bill into the Legislative Council, June 27th, 1889.

CHAPTER III.

THE LAND-TENURES.

SECTION I.—GENERAL FEATURES OF THE PROVINCE.

§ 1. *Ancient Gondwána.*

THE Central Provinces represent, at least over a great part of them, the theatre of four kingdoms of *Gondwána*—the country of the Gonds—a Dravidian race.

In the General Chapter (Vol. I. Chap. IV. p. 119) I have sketched what is known of the Dravidian organization; and pointed out, on the authority of Mr. J. F. Hewitt[1], how readily it amalgamated with that of the Aryan (Hindu) immigrants.

We have no knowledge of the actual Gond kingdoms before the fifteenth or sixteenth century of our era[2]. And then it is certain that there were great Rájás with minor chiefs under them. Within historic times the greater portion of the country was waste and forest; and it seems probable that the location of permanent villages slowly took the place of the shifting and temporary cultivation in the hill jungles, known in these provinces as 'dhayá,' or 'bewar,' and 'niwar' in Sambalpur. As cultivation gradually became permanent, under groups of colonists led by their hereditary headmen, the evidence points to the fact that the headman never claimed to be the owner of all the village area, but each family held its own land on the ancient and well understood title of having first cleared the waste. As to the surrounding jungle, that belonged to the Rájá or the chief, though it was understood that the villagers were entitled to *use* it for grazing, firewood, timber, and other products. In course of time, as usual, the headman became more connected with the State organization, to realize the king's or the chief's share in the produce. We have no evidence of landlord families getting a footing in individual villages, or of bodies of clan adventurers establishing (landlord) village estates. It may, therefore, be safely conjectured that if village communities of the 'pattidárí' type were ever to be found, i.e. villages held by a body of relatives jointly holding and claiming the entire area in a ring fence, as lords of the soil, it would be, in comparatively modern times, from the chief's estates having disintegrated, or where the chiefs or the Rájá had made grants or allotments to younger scions of his family. It may be conjectured that the Gond system of kings and chiefs—each with their estates—would have resulted in a similar state of things, if circumstances had favoured it, as they did in other parts; but they did not. Certainly the Gond villages presented no feature of joint-ownership, as far as we can judge from survivals, as we shall presently see. In modern times, throughout the Central Provinces, except in a few places where joint (zamíndári and pattídárí villages) occur in the northern districts (where the Rájputs had been), the villages are like those of the Dakhan, of the non-landlord or raiyatwárí type. We have groups of cultivators—each responsible for his own holding—and, as we noticed in Nímár, absolutely declining any joint liability for the revenue of the village as a whole. There was a common headman, who managed the village, and the usual staff of village servants and artizans, but no one claimed any proprietary right over anything but his own holding.

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[1] See his very interesting paper on Village Communities in *Journal Society of Arts*, May, 1887, vol. xxxv. p. 613.

[2] *Administration Report*, Central Provinces, 1882–83, Part II. p. 9.

§ 2. *Site of Ancient Kingdoms.*

As regards the actual sphere of the ancient conquests, we have certain historical facts to go on; and also a glance at the *Census* returns will give us some clue to tribal settlements and conquests, by showing the numbers and location of certain prominent castes or tribes.

The Narbada Valley and the north-eastern parts of the Sátpúra hills were certainly the scene of Rájput (or mixed Rájput) kingdoms of Haihaiyás, Pramarás, and Chauháns, as might be expected, from the neighbourhood of Rájputána and Málwá. Their rule lasted till about the thirteenth century. The Chhattísgarh districts of Ráipur and Biláspur were in the hands of Rájput rulers at the date of the Maráthá conquest in the eighteenth century; and Sambalpur was a Rájput kingdom, though of the Orissa type, the people being Uriya-speaking and a large proportion of them Uriya Brahmans.

The writer of the *Administration Report* of 1882–83 also mentions a settlement of Pramará Rájputs somewhere in the Nágpur province.

§ 3. *Indications of Tribes occupying the Province.*

As regards population, the Kolarian tribes are found chiefly in the hilly tracts of the northern part of the province, and the Dravidian (Gonds, &c.) in the southern part. The census shows over eight-and-a-quarter millions (in round numbers) of Hindus, 2.400,000 of Dravidians (Gonds), half a million of Kolarians (Kols, Bhíls, Karkus, &c.), and a small number of 'unclassified aboriginal tribes[1].' As the Gonds have been progressively 'Hinduized,' it is impossible to say how many of the 'Hindus' are not really of local origin.

The Dravidians form 20·8 of the population (Gonds being 17·7 per cent.)[2], the districts of Nímár and Ságar having only a small number, and Nágpur also. The Kolarians are, of course, a small percentage (4·4 per cent.) and are confined (as might be expected) to Sambalpur with its northern and southern Feudatory States bordering on Chutiyá Nágpur and Orissa. They form also an element in the population (5·7 per cent.) of Biláspur, of Mandlá (6·3), Jabalpur (8 per cent.), Narsinghpur (4·6 per cent.), Chhindwára (3·2), Hushangábád (7·3), Betul (11·1), and in Nímár. In other words, the Kols, Kawárs, Baigás, &c., have spread through the hilly region of the north and east from their home further east.

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[1] *Administration Report*, 1882–83, p. 39.

[2] The principal of the *other* Dravidian castes are Kondh (only in Sambalpur and Feudatory States), and Sábára. The Gonds formed large clans, of which some are still more or less localised, e.g. the Múria of Bastár, the Mária of Chándá, and the castes called Pardhán, Dhur-Halba (Ráipur and Bhandárá), and Báhria in the north.

There are, of course, many other castes who apparently came from the south and west, in smaller numbers. The industrious Kunbí or Kurmí tribe or caste numbered about three-quarters of a million in 1881, and these are supposed to have come from the south originally[1]. The curious tribes of Gújars, who settled so largely in the Panjáb and then penetrated into the Gujarát districts of Bombay, extended their location to the Narbada Valley, and something under 50,000 of them are found in the districts of Hushangábád, Nímár, and Narsinghpur.

§ 4. *The Gond Village.*

Our principal means of judging what the Gond land organization was like, is by inference from what is known of Orissa and Chutiyá Nágpur, where we have examples of the Kolarian organization, and how it was modified by the Uráoṅ (Dravidian) conquerors.

The principal features of the Gond settlements appear to have been that they occupied the country *en masse*, not disturbing the existing inhabitants; they would, no doubt, take the best lands for themselves, but there was room for both. We have evidence, as Mr. Hewitt describes, that the Gonds had a strong central Government, which they established over, and in addition to, the earlier organization of the Kols, and which consisted in grouping the villages into unions (=parhá and the nád of Southern India), and managing the affairs of those unions by councils of village chiefs. They placed the great Rájá in the most important (central) domain, and grouped the other territories into greater or lesser chiefs' estates, around the former.

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[1] There is some reason to believe that they are derived from, or connected with, the Vellálár caste of colonists, famous agriculturists of the south; their supposed connection or admixture with the Kaurava or Kuru Aryan clan has also been adverted to.

Their system of taking revenue was apparently, in its original form, not that of taking a share of the grain-produce of every field, but the allotment in each village of a certain area (called majh-has in Chutiyá Nágpur), the produce of which went to the royal granary or chief's granary as the case might be, or to some grantee or relative of the king or chief to whom it might be assigned.

'The rest of the area,' says Mr. Hewitt, 'was divided into allotments called "khúnt"; these were assigned to the founder's families who held the village offices. All these . . . were made hereditary. They were called "bhúiṅhár," and were chosen from the original settlers.' At a recent period, however, the king or chief added to his wealth by taking a share of the produce of all fields (except those of the founder's allotments), and he then introduced an accountant called 'Mahto,' to look after his collections. This functionary was provided with an allotment; and thus the *khúnts* were held by the king or chief, by the old headmen, the *mahto*, the priest of the village, local and national deities, and by the old families: the rest was held by tenants and inferiors. The king took no revenue-share from the bhúiṅhár lands or those of the priests, and hence land became classified into Ráj-has, that paid the king's share, and land that did not pay. Under such a system, of course, it was possible for the Gonds, who are represented as a peaceably-inclined people, to extend the villages, merely securing allotments for themselves and taking the rents from the rest, without seriously interfering with the cultivating possession of whatever people might be settled before—if any.

Such a village-system would very soon settle down in later times, into the ordinary village in which all cultivators were alike, the headman who becomes the Maráthá pátel (and the accountant) alone remaining superior. The priest is perhaps ousted by the Brahman, and his holding is represented by some fields held revenue-free for religious purposes.

I have not found in the Central Provinces reports any such distinct vestiges of the Gond village allotments as we find in the Chutiyá Nágpur territories, except indeed where the 'watan' or official tenure of land, preserved in certain parts, may be regarded as the survival of the old bhúiñhár's allotment or *khúnt*. How this constitution was further modified by the growth of the headman and the employment of revenue-farmers, will be considered presently.

SECTION II.—ZAMÍNDÁRÍ, JÁGÍR, AND TALUQDÁRÍ ESTATES.

One of the most visible remnants of the Gond organization was the fact that the estates of the chiefs—greater and lesser—were still found in existence when our rule began; and they have been preserved under varying conditions, partly according to the policy of the time, partly according to the state in which they were found. The estates known as 'Feudatory,' and as Zamíndárí and by other names, represent the estates of chiefs subordinate to the ruling chief, and bound to him in feudal service. They represent also, in some cases, service grants of the old ráj, and estates held by wardens of the marches to preserve the peace of the frontier. In some cases, also, they represent tracts made over by the ruler to a favoured individual, who undertook to reclaim the waste; such a person was also called 'Zamíndár'[1]. They are known by various modern names as jágirs, Taluqdárís, and Zamíndárís ('Garhotiyá' estates in Chhattísgarh). Fifteen of the larger districts were treated as 'Feudatory States,' that is, they are technically not British territory; they are administered by their own chiefs, without interference beyond ordinary political control, and pay a fixed annual tribute. When a minority occurs, or for some other reason, the Government may take the State under management till the chief comes of age, or till the special reason ceases to operate. This has been done in several cases to the great advantage of the State, which has been got out of debt and restored to its ruler in an improved financial and administrative condition [1].

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[1] See the speech of Mr. R. Crosthwaite in Legislative Council. 'In some parts, especially those which were remote from the seat of government and which comprised a large amount of waste land or forest, the Native governments used to assign a large tract of land to a person called a 'Zamindar' who had to pay the revenue assessed on it' (this was by way of a lump sum or tribute, but raised from time to time), 'and who made what he could out of it. He managed the estate by leasing villages or tracts of land to "thekadárs" or "gáontiyás," who paid a premium (nazarána for their leases, and also a yearly revenue with numerous cesses.'

Of the fifteen 'Feudatory States' one (Makrái) is in the north in the Narbada division, the others are all adjoining the Chhattísgarh division.

There remain 116 'non-feudatory (proprietary) estates.' Their Settlement was made with the 'Zamíndárs' and necessarily on somewhat different principles from the málguzárí villages.

It will be observed that there is no real difference between the 'Feudatory' States and the smaller 'Zamíndárís,' except that the former, being larger and more important, were treated as of higher rank, and as quasi-independent territory, while the smaller, though still allowed certain privileges, were included in the domains subject to British Land Revenue law.

As regards the various titles already indicated for these estates, the term 'Zamíndárí' does not imply any direct connection with the Bengal theory of Zamíndárs. These chiefs were never invested with any office under any government but their own; the name was merely given them for convenience, as they were 'landholders'; or else was copied from the cases where a grant had been made to manage a tract and reclaim its waste as above noted. The 'jágírs' were probably so called (in Chhindwárá) because the estates were connected with service in keeping order in the hills. The 'Taluqdárs,' doubtless, received the designation when the estates came under the Muhammadan or Maráthá rule as the case might be.

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[1] As in many instances the estates are held by illiterate chiefs of the Gond, Habla, or Karku tribes, it is not surprising that their administration should often leave much to be desired.

The status of proprietors of this class is by no means uniform throughout the province; and this resulted from the views that were held at the time when the estates came under Settlement; those views varying from time to time. Speaking generally, the Taluqdárs of the Ságar-Narbada territory and the smaller Zamíndárs of Bhandárá and Bálághát (and some in Ráipur) differ but little from ordinary málguzárs. But the Sátpurá jágírdárs and the Zamíndárs of Chándá, Ráipur, and Biláspur were granted 'sanads,' and the succession is by primogeniture.

The following brief account of the chief's estates, district by district, will show the different principles under which the estates were granted and settled.

Seoni.—The Ádigáoṅ 'jágír' lapsed to Government in 1874, and so this district now possesses no such tenures.

Hushangábád.—There are five 'taluqdárí' estates (subject to the rule of primogeniture) and three jágírdárís (transferred from the Chhindwárá district after Settlement)[1].

The Taluqdárs of the Sagar-Narbada territory came under British rule some years before the Zamíndárs and jágírdárs of the Nágpur country, and were treated somewhat differently—according to the policy of the North-Western Provinces Government of the time. They were not regarded as bearing any special character; and their estates were settled, village by village, in the ordinary fashion, the Taluqdár being recorded as sole proprietor of his own villages, and 'superior-proprietor' of others in which either headmen, grantees, or farmers (thekádárs) were found, who were held to deserve the sub-proprietary status. The Taluqdárs differ but little from ordinary proprietors[2].

Chhindwárá.—Contains nine jágírs. No Settlement was names as jágirs, Taluqdáris, and Zamíndárís ('Garhotiyá' estates in Chhattísgarh). Fifteen of the larger districts were treated as 'Feudatory States,' that is, they are technically not British territory; they are administered by their own chiefs, without interference beyond ordinary political control, and pay a fixed annual tribute. When a minority occurs, or for some other reason, the Government may take the State under management till the chief comes of age, or till the special reason ceases to operate. This has been done in several cases to the great advantage of the State, which has been got out of debt and restored to its ruler in an improved financial and administrative condition[1].

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Chhindwárá.—Contains nine jágírs. No Settlement was made beyond an inquiry into the rights of the jágírdár. The 'sanad' (or patent) grants the land-revenue, excise, house-tax (pándhari), but not minerals; it imposes restrictions on cutting the forests, prescribes primogeniture, makes the estate indivisible, and non-transferable[1].

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[1] See *S. R.*, p. 156, sections 22-35, and for some estates in Jabalpur, see the *S. R.*, section 98.

[2] See *S. R.*, Chapter XI, section 499, &c.

In *Chánḍá* there are twenty Zamíndárís, occupying nearly half the district, and including the great Ahirí estate. The boundary of the estate was mapped, but no interior or field-maps were prepared. The rights of inferior proprietors under the Zamíndár, and of tenants, were inquired into and recorded, and a wájib-ul-'arz, or administration paper, prepared.

The estates (according to the wájib-ul-'arz) are non-transferable without consent of Chief Commissioner, indivisible, and succession is regulated: the descent is by primogeniture. The Zamíndár, as usual, gets (besides his rents) the excise, pándhari-tax[2], and forests. The right which would make a man 'proprietor' of his holding in a Government (k͟hálsa) village, is to give a similar right in the Zamíndárí to heads of villages (pátel), mukásadár, muktadár, and farmers (these terms will be explained presently). Occupancy-tenants are also recognized.

Bhandárá.—There are twenty-seven Zamíndárí estates, occupying about 37 per cent. of the district area. The Zamíndárs have different rights. Some villages are held by them in sole proprietary right, others having been leased to thekádárs, who are held to have certain rights; in others, they hold only as 'superior proprietors,' the village-owners below them being protected by a sub-Settlement. There are 590 Zamíndárí villages, of which 270 belong to the first class, 139 to the second, and 181 to the third class. The villages were all surveyed and settled just like the *khálsa*, or Government villages, except that the waste was left to the estate, but separately measured as a 'forest' mahál, and settled with the Zamíndár for a term of three years.

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[1] Forms of the sanads are given in the volume of *Translations of specimen forms of Wájib-ul-'arz*, adopted in the Settlement, 1865–76, Nágpur, 1885.

[2] The Pándhari (or Pándhari-patta—*Wilson*) was a sort of license tax or fee levied from traders, in villages and towns, like the 'muhtarafa' of other parts, which was the overlord's levy on the non-agricultural part of his community. The collection of this tax in certain districts is regulated by Act XIV of 1867.

Bálághát.—About one-third of the district is held by nine Zamíndárs. These were dealt with in the same way as described for *Bhandárá.* Some of the Zamíndárís are here held by two or three brothers jointly.

Ráipur.—In this district there are seventeen of the Chhattísgarh Zamíndárís, variously treated. In two, neither Settlement-survey nor village records were made. In six estates, blocks of jungle and of cultivation were surveyed and village records made. In nine estates, villages were surveyed and settled just like Government villages; rights subordinate to the Zamíndárs were recorded, and a sub-Settlement granted in some cases. The patents make the estates indivisible, non-transferable, descending by primogeniture; widows may succeed, however: and it is provided that forests are to be 'managed by the Zamíndár under the rules obtaining in the Government unreserved forests[1].'

Bilúspur.—Contains the rest of the Chhattísgarh (proper) Zamíndárís, some of them called 'Garhotiyá' (holders of forts). They were settled for twenty years, for a lump-sum payable by the Zamíndár. No village measurements were made, only the boundaries of each Zamíndárí were surveyed and mapped. Lists of the villages were made out and the rights of the gáoṅtiyás, or headmen, recorded. The forests are provided to be managed as in Ráipur. In this district are two 'táhuddárí' estates[2]. They are settled very much like the Hushangábád talukás, village by village.

Sambalpur.—Contains seventeen Zamíndárís. Some of the chiefs misconducted themselves in the mutiny, but their estates were regranted on proclamation of the amnesty. Agreements, called *qabúliyats*, were taken from them.

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[1] See form of patent in the *Wajib-ul-'arz* volume.

[2] An Arabic word táhud, derived from 'ahd' a covenant, meaning a lease on fixed terms for colonizing the waste. See Bilúspur *S. R.*, § 313, Ráipur *S. R.*, § 242.

One of the most important, Chandarpur-Padanpur, was completely settled, and the rights of the gáoṅtiyás and of the raiyats are just the same as in Government villages[1], only that the Zamíndár takes the revenue and manorial dues, and the proprietary privileges generally. This Zamíndárí was not an ancient one, but a modern grant for good service to an official. There was some mistake about the original grant, and finally these parganas were given. Government was therefore bound to protect the raiyats in a special manner.

§ 1. *Mode of Assessment.*

In most cases, the annual payment, or quit-rent, of the Zamíndár, called *takoli*, is fixed for a term of years[2]. In future, as the estates advance in prosperity and resources, it is intended to bring the villages under regular settlement: the differences in treatment of the estates, which characterized the last Settlements, will then disappear.

§ 2. *Zamíndárís no longer 'Scheduled Districts.'*

I should here mention that the exemption from the ordinary land-revenue and other laws of certain of the Zamíndárís (consequent on their being included in Act XIV of 1874, the 'Scheduled Districts Act') is now repealed, and the Zamíndárís are subject to law like any other proprietary estates. This does not, of course, refer to the 'Feudatory States,' which are, legally speaking, foreign territory.

§ 3. *Founding of Villages in Zamíndárís.*

Some interesting particulars about 'Zamíndárís' deserve to be noted. Whether the Zamíndárí was the ancient territory of a chief, or was merely granted by the Native Government of the time to some favoured person who undertook the management (see p. 445 and *note*), the same procedure as to establishing villages in the waste has been observed. And this, in all probability, illustrates the method in which villages grew up all over the province.

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[1] See *S. R.*, § 169, et seq.

[2] Where there was a village-to-village settlement, the assessment of these (or 'kámil jamá' as it was called) was made as if it had been a Government village, and then the estates of the villages being added together, a varying proportion went as the Zamíndár's takoli to Government, and the rest went to the Zamíndár. Some of the Zamíndári and taluqdári estates are allowed to be revenue-free.

The object of the 'Zamíndár' was, of course, to make as much as he could; and this he effected, not only by leasing existing villages, but by allowing the occupation of tracts of waste, on easy terms, and encouraging the foundation of new villages. Very commonly, one of the 'aboriginal' inhabitants, who could not find room in his own home, would select a spot that pleased him, and commence clearing the ground, with the aid of a few relatives and followers. And thus the nucleus of a permanent village was formed. A very good series of articles appeared in the *Pioneer*, in 1889, on the founding of villages, from which the following extract is derived. The author is unknown to me.

'In marching through the numerous tracts of forest with which the greater parts of the more backward of the Chhattísgarh Feudatory States are covered, it is not unusual to come across a small group of primitive huts, surrounded by some acres of sandy soil on which charred stumps are still standing, and which are sown with cotton and oil-seed and a coarse kind of hill-rice. On inquiring to whom this little clearing belongs, it will generally be found that it has been settled by an aboriginal emigrant from some neighbouring village who, in his forest wanderings, has selected the spot as favourable for cultivation, and whom the greater freedom and absence of restraint, with possible hopes of future gain, have induced to try his fortune here, and to carry on with his own hand the unceasing war waged by man against the unchecked forces of Nature. He may have induced a brother or an uncle to emigrate with him, and they with their families and the propitiator of the village god, who is appointed as soon as the hamlet is settled, make up the nucleus of the village, which, if energy endures and fortune favours, will in due time take the place of the present little settlement. For the first year or so little can be done. The forest is burned down where the difficulty seems to be least, and the ashes afford manure for the first scanty crops of hill-rice. Meanwhile, however, cutting is being commenced on a larger scale; and soon, with the aid of the axe and of fire, plots are cleared where oil-seed can be sown, and the surplus produce sold at the distant bazaar. Irrigation is not yet thought of, and it is interesting to notice that it is the high-lying and inferior lands which are the first to come under the plough, and that the lower rice-lands and richer and less yielding soils are reserved for times when some little capital and more easily available labour give the needful means for cultivating them.' . . .

'The original settler soon notices that there is abundance of waste land for cultivation, and that, if he could induce other settlers to join him, it would not only add to the comfort and safety of the settlement, but would give him labour for the common purposes of the village, and would thus allow him leisure to commence some simple irrigation work and to bring some of the lower lying land (for I am dealing with a rice country) under the plough. As the village is already started and the land practically cleared, he soon induces a few landless cultivators from neighbouring tracts to join him, and as the little community grows, they are joined by waifs and strays of the lower castes, whose subsistence is everywhere precarious and who are glad to find a home where they can always live on wild fruits and roots, and where they can generally obtain a subsistence as watchmen or menial servants in the rising village. The new cultivators are not in most cases called upon to pay rent. The ruling chief has probably not heard of the little settlement, and even should he have heard of it, he is only too glad to encourage the enterprise and to let the original settler have the plot on a nominal payment of a rupee or two a year.

'Though, however, rent is not generally paid, help is taken and given. The original settler, who now assumes the position of headman, lends seed and cattle to the cultivators, if they need it; while they, on the other hand, agree to give him a certain amount of labour in ploughs and men for the cultivation of his home-farm. In this way the headman gains some little leisure, and can begin to embank a suitable spot which will serve to irrigate the lower lying lands which promise a richer crop of rice than those which he has hitherto reaped. In due time a small tank is made; other improvements follow; the produce of the land becomes more plentiful; cultivators gradually increase, and the few village servants are appointed from among the non-cultivating residents and are paid by grants of land and small payments in kind. New cultivators are welcome; the competition is for men, not for land; and both in the case of cultivators and in that of village servants, the hereditary principle rules, because there are no competitors and possession is undisputed and undisturbed. The village watchman, the priest of the village god, and the herdsman of the cultivator's cattle, form the simple village staff, and there are no disputes regarding lands, because on that point there is no rivalry.'

Then it happens that the chief hears of this village: an official is sent to the spot, and the 'headman' undertakes to pay a 'nazarána' for a 'lease' of three to five years or so, and to collect certain dues from the other villagers. Observe that the headman's home-farm (the old Dravidian allotment or khúnt)—which is sure to be the best land—pays nothing but the nazarána, and is probably also worked partly by labour contributed for a day in the week or so by the others. The 'gáoṅtiyá' is asked about the number, caste, and other particulars of the settlers, and how much land they have, and then a lump-sum (or a total of grain) is bargained for, which the headman has to distribute over the village holdings; but observe that they are not his rents; they are the Rájá's, and are all payable to the chief, so that there is no question of the headman being owner, or of *his* having any right to 'enhance' the rents. It is quite possible that in time, the chief or the 'Zamíndár,' with a view to getting more revenue, will oust the old gáoṅtiyá, and put in a more energetic 'thekádár.'

There are many cases where new villages have arisen in this way, as offshoots or hamlets from a parent village. An energetic cultivator is started with grain and ploughs, and, perhaps, freed from all rents for two or three years. In other cases, the chief will himself locate cultivators and build up a village. The graphic writer, whose words I have quoted, also speaks of dependants or relatives of the chiefs who are granted tracts or smaller estates in the outlying lands. They are called 'garhtiyá' or 'táhuddár.' Here the estate-holder pays a 'nazar' to the Rájá, and gets a headman and followers to start a village, exacting in his turn a nazar (of larger amount) from the headman.

In these cases, the 'Zamíndár,' the chief, the garhtiyá, &c., have become recognized under our rule as 'proprietors'; but the headmen of villages, whose rights might be various according to circumstances, were not protected at all, till the passing of Section 65 A of the amended Revenue-Act, which grants certain rights under the conditions stated in the section.

§ 4. *Origin of Villages generally.*

These cases of village-founding in the waste are interesting, as probably showing the origin of a large number of village estates throughout the province; both in the chief's estates which survive, and in the king's domain which has now become the Government or khálsa land. How little, in such cases, the headman is really owner of anything but his 'sír' or home-farm, and how little the settlers are entitled to be called his tenants, will at once appear. *He* had nothing, in many cases, to do with their rents, which all went to the Rájá; *he* had no power of enhancement, except as the agent for a new distribution of any heavier sum the Rájá might have demanded as he saw the village grow. Nor was the chief, originally, the proprietor of the soil, though his power may have enabled him to control the cultivators very much as he pleased.

§ 5. *The Khálsa Area.*

There is really nothing to distinguish the *natural* tenures in the areas still held by chiefs and those in the rest of the country—the *khálsa*, or land directly held under the Government, the revenues of which are paid to the State treasury. As usual, we find this territory consisting of 'mauzas,' or villages which are natural groups of cultivation, and are only artificial in a few cases where sales of waste-land, &c., have given rise to new villages (see Land-Revenue Act of 1881, definition of 'village').

SECTION III.—THE VILLAGE-TENURES.

§ 1. *General Remarks.*

In the *modern form* of village-tenure of the khálsa districts we now find a specific change. The proprietary-right as it now exists—the málguzárí tenure—is a creation of our own system. In the North-Western Provinces and the Panjáb, the idea of the middleman proprietor has generally found expression only in an ideal form, the village-body, as a whole, being the proprietor. In Oudh, a proprietary-right has been recognized in the Taluqdár; and in Bengal a similar but larger right in the Zamíndár. But in all these cases, the tenures—however much they may owe to our legal shaping and development—are still, more or less, natural in their origin, and are based on existing features of landed interest which arose, grew in form and strength, and became fixed, by the historical circumstances of the country, the effects of conquest, and of the changes and chances of Native rule.

But in the Central Provinces we find an almost wholly artificial tenure, created by our revenue-system and by the policy of the Government of the day. The circumstances of the villages were such, that a strong *body* entitled to be called proprietor of the whole not appearing, there was the usual latitude for difference of opinion as to whether a raiyatwárí Settlement should be made or not. The districts first settled were, as we have seen, under the North-Western Provinces Government. In *some* of these there were really proprietary-villages; but the feeling of the administration was then in favour of village Settlements, and against raiyatwárí; hence it was desired to find a proprietor for *all*. It is a question that may be debated, whether the (non-landlord) villages were in a state in which separate raiyats could have maintained themselves as well as they do in Bombay; or whether they were in such a condition as to need the help of a 'proprietor' over them. It may also be debated whether the village málguzárs,—the original headmen or later contractors, had or had not, in the course of years, *grown* into something very like proprietors. Whatever the truth may be on these points, it may safely be said, that if a proprietor was to be found for each village, no one else but the pátel or málguzár could have pretended to the position. It is however generally recognized that it was a mistake to *find* proprietors at all: not only have portions of the province been left purely raiyatwárí, but in all cases the proprietary-right of the málguzár has been much limited.

My object in this section will be to explain in some detail how this new proprietorship over the villages originated, and how it developed.

§ 2. *Conferment of Proprietary Right on Málguzárs.*

The formal orders under which the new proprietary-rights were conferred, should first be noticed. I have already alluded to the attempt, in 1846, under the North-Western Provinces administration, to constitute estates *out of the whole raiyatí body*, provided they would undertake the joint responsibility. It failed completely[1]. Eight years later (in 1854), it was proclaimed that the Government intended to make a twenty-years' Settlement, and 'to confer the zamíndárí right on such persons as may appear to have the best right to such a gift, either from their having held long possession, or from their having, since cession, brought estates in their possession into cultivation and regularly paid the Government demand on them. . . . Every proprietor would have the free right of transfer or division.' These orders for the Ságar-Narbada districts were extended to Nimár (No. 4316, dated 19th December, 1864).

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[1] These orders show how systems tend to take hold of people and blind them to all other views. The early authorities seemed to have regarded a *village* proprietary as the only reasonable thing—an individual proprietary as something abominable. Obviously, Nimár ought to have been settled raiyatwárí, and it would have saved all the subsequent correspondence, and also the curious and anomalous position which actually exists.

The conferment of proprietary-right in the Nágpur country and in Chhattísgarh, was the result of orders which were received from the Government of India in the Foreign Department, to which the Commissioner of Nágpur was then directly subordinate. In the letter (No. 2279, dated 28th June, 1860) it is said:—

'You state that instructions to the Settlement Officer, regarding proprietary-right, will be submitted for the sanction of the Government at a future date; meanwhile you observe that no proprietary-right in the soil has ever been admitted, though the incumbency of many of the málguzárs has been long enough to establish it.

'You propose now formally to admit this right, and even to restore possession to those who, under the former Government, have lost their incumbency from the avarice of the ruler, or the caprice of his officers. You would, however, admit the proprietary right subject to certain conditions. You would allow the holder to mortgage his property for a term of years under restrictions, and to sublet it, but not to sell it, at least for the present; nor would you make the land liable to sale in satisfaction of decrees of the Civil Courts. You would lend your efforts to improve the position of the village headmen, to re-establish old families, and associate them with the Government in the suppression of crime and the improvement of the country; and you would leave the málguzár from 30 to 35 per cent. of the gross rental, and in some cases 40 per cent.

'In regard to the admission or creation of a proprietary right in málguzárs, I am desired to state that the Governor-General in Council is strongly in favour of the measure so far as it can be carried out without prejudice to the right of others. But His Excellency in Council is in favour of giving the proprietors thus created as large and as absolute a control over the property vested in them as is consistent with local usage and feeling. Where such usage and feeling are not opposed to the measure, it can only tend to the prosperity of the province to confer on every landholder[1], as nearly as possible, a fee simple in his estate, subject only to the payment of revenue of the Government, and to put in his power to dispose of his interests in the land as he pleases, by sale, gift, mortgage, bequest or otherwise; and though it is not desired that this policy should be pushed so far as to do violence to the feelings of the agricultural community, or to interfere with vested interests, yet His Excellency in Council wishes you to bear in mind that it is not the wish of the Government to limit the proprietary-right any further than a due respect for such feelings and interests requires.

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[1] This did not mean that a *single* proprietor was everywhere to be recognized. The orders stated 'where there were several proprietors in a village who had hitherto been responsible in common for the pay-

'The Governor-General in Council, however, agrees with you in thinking that land ought not to be made saleable for arrears of revenue, except as a last resort, when all other means have failed, and that it ought not under any circumstances to be liable to sale for simple debt.'

Under these orders, proprietary-rights were gifted to the málguzárs in all the districts of the Nágpur and Chhattísgarh divisions, except Sambalpur. The applicability of these orders to Sambalpur was, indeed, announced by Sir Richard Temple, in Darbár, at Sambalpur, in 1862; but there was a change of policy before they could be carried out in that district, as I shall presently relate.

These orders, it will be observed, strictly reserve the rights of others subordinate to the málguzár. How this reservation was given effect to will be stated presently. The orders also reserved to Government the right in mines and quarries, and in large tracts of uncultivated land and forest, as already indicated.

§ 3. *Origin of Málguzárs.*

We naturally turn to consider who were the 'malguzárs' whom the system made proprietors of the villages.

I have already remarked that, for the most part, the districts were (in former days) Gond kingdoms; and, for that lesser part, where Rájput states had existed, or where the Dakhan Muhammadan states had extended their rule,

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ment of the land-revenue, such joint responsibility would be maintained until the complete division of the village into separate mahals.

the difference of government, for our present purpose, made no change in the principle.

No form of administration that we are acquainted with, Aryan or non-Aryan, altogether dispenses with a village-*headman*. Where the village is entirely owned by a body of co-sharers, the *panchayát*, or council, no doubt, is collective headman; but, even then, one man is appointed to act as a sort of agent with the authorities. It is in the raiyatwárí village that the real *headman* is most needed, and there he belongs more completely to the State organization—having to collect the State dues, to secure the proper cultivation of the village, and generally to superintend its affairs and settle disputes.

The laws of Manu already take us to a time where the headman is in this position. In some cases we see (as in Chutiyá Nágpur) a king's headman put in along with the original founder-headman, and the former naturally reducing the latter to an inferior position.

The headman is very commonly allowed to hold, more or less revenue-free, a certain area of land. That was certainly the Gond plan; and it was so in many similar States. In the Dakhan and elsewhere, this *ex-officio* holding survived in the 'watan' of the village and pargana officers. This term will be described more fully further on; here, I need only say that it refers to land held in virtue of office, and also not only for life, but by the family for ever. The 'watan' (as such) is now only known, in the Central Provinces, in the three north-eastern districts that had been under Muhammadan rule. This is remarkable, for the institution is by no means a Muhammadan one; but the revenue-system of the Dakhan kings scrupulously preserved the ancient forms, and hence this one survived, being given a new name by the Perso-Arabic-writing officials of the kingdom. In practical use, if not in origin, it is much the same as the 'bhográ' lands of the village headman in Sambalpur or Chhattísgarh, or the pátel's ''inám' of other places.

Whether it was in the more powerful and tenacious character of the families who held the 'watan' in the Dakhan, or whether there were circumstances of convenience, the *watan*, after it had been fixed by the Muhammadan system, was often allowed to survive under the Maráthás. But elsewhere it was different. Either the villages of most of the Central Provinces grew up out of the waste, at a date when the old Dravidian ideal was already in decay, or, more probably still, the rights of the headmen were not recognized by the Maráthás, who taxed all the land, and the headmen began to look for their emoluments to other sources.

The Maráthás, no doubt, cared very little for systems and rights, as such; but, wherever their rule was firmly established, they consulted their revenue-interests best by observing moderation, though taxing everything. They did not, therefore, encourage great middlemen—the Zamíndár and the Taluqdár of the Gangetic plain or Bengal; they knew how much revenue such people absorb and intercept. They looked askance also on the multitude of pious revenue-free allotments and the jágírs granted to court favourites, that covered the country; and, without incurring the odium of actually resuming such grants, they made them pay a tribute or a quit-rent, whence so many of the Maráthá tenures (in the Central Provinces and elsewhere)—'úbárí,' 'joḍi,' 'muktá,' &c., are held at favourable rates, but not free of all revenue. Probably, privileged holdings disappeared under such taxation and the changes frequently made in the management of villages. However that may be, the 'watan,' so marked in Berár and in the Dakhan, has not, at any rate under that name, survived as a feature of the Central Provinces' village-system generally.

§ 4. *Consequences of the Maráthá Policy.*

The consequences of the Maráthá policy are apparent: the greater Gond and Rájput Rájás were displaced. Only those chiefships (some of them, indeed, representing large areas) remained, which were either too remote from the centre of authority to be interfered with, or were in hilly or forest-clad country, where there would have been no object in interfering with them. A glance at the actual position of the feudatory and ordinary Zamíndárís and jágírs, will at once justify this remark.

But the village-system, being raiyatwárí, was in itself such that it could not be seriously interfered with or modified. Individual privileges might be destroyed, but the form remained; and, it must be admitted, as already explained, that ideas of proprietary-*right* were very much affected by what happened.

No system, in truth, could be suited to the genius of Maráthá finance better than that of groups of independent landholders of small areas like those of the Central Provinces villages. They took care, however, that the village should be completely under the control of the headman, who was, in his turn, under the iron vice of necessity to furnish the fixed revenue of the village.

Whenever the original headman was capable, he was naturally the best man to trust to; his influence would secure full cultivation (and the consequent revenue-instalments) better than a stranger would. If, therefore, he was a strong man, and could commend himself to the officials, his place was secure; and probably his payment, though heavy, was not ruinous.

If the headman, however, was weak, or was, for any other reason, unable to answer for the sum the authorities expected, or if a court-favourite wanted the village, the headman was ejected without hesitation, and a farmer put in. The farmer, or manager, was at first called mukádam (the Hindí or Maráthí form of the Arabic muqaddam). But under the rules for summary Settlement of 1855, the title of 'málguzár' was given, and has since become general[1].

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[1] The reason probably was that muqaddam was a term which had other meanings, and so confusion might arise. At the present day the term mukádam or muqaddam is used in the Central Provinces to mean the *executive* headman of a village (who *may* be separate from the revenue-engager). See *Land-Revenue Act Definition*, and sections 137, 141, &c.

The headman, whatever his Gond title may have been, was called by the Maráthá term 'pátel.' As, therefore, the revenue-manager of the village might be of various origin, he got called by the vague term 'málguzár'—the revenue-engager. He might have been the old pátel, he might be an outsider, and the common name suited either. Hence we speak of the málguzárí Settlement and the málguzárí estate. Only it will be remembered that the person settled with, and on whom the estate was conferred, was sometimes a pátel, sometimes not.

§ 5. *Growth of the Málguzár; question of his being really entitled to be made Proprietor.*

There can be no question that the original village headman was never owner of the whole village in any sense whatever. *À fortiori*, the revenue-farmer was not.

But the headman, if powerfully supported by the State, has great opportunities of growth; and he may sometimes, if not often, slide into a position which a very little imagination magnifies into that of landlord. It is worth while remarking that in the Guzarát villages, where the descendants of Rájput clans had formed really joint bodies of owners claiming the entire village among them, *every* co-sharer is addressed as 'pátel.'

Sir H. Maine has remarked on the tendency of the recorded revenue-payer of the State to become proprietor[1]. The tendency cannot indeed be denied; but its activity and final results depend wholly on the vigour of the ruler, and on the special circumstances of the case. Hence, no doubt, if we could really be sure of all details, we should find pátels and málguzárs in different parts of the provinces having very different positions and degrees of connection with the estates. In some, the pátel had remained for generations; on him the village depended for help for advances and seed-grain in bad years; he was resident permanently, and they could not get on without him. Sometimes he had founded the village, or dug its tank, and made extensive improvements. In other places a mere court-favourite held the farm; he was non-resident; never helped the people; let the tank go out of use; and had perhaps not twice in his life been inside the village. There was ample opportunity, under such a variety of possible conditions, for some officers to argue, from facts coming under their notice, that the headman or farmer had really grown, in the lapse of time, by his status in the village (aided by purchases, mortgages, securities, and by his general influence), into something very like a real landlord; in other places, there was equal opportunity for declaring that his creation as proprietor was absolutely unwarranted and artificial.

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[1] 'As a matter of fact, it is found that all agrarian rights, whether superior or subordinate to those of the person held responsible to Government, have a strong tendency to decay. I will not ask you to remember the technical names of the various persons settled with . . . but I dwell on the fact that the various interests in the soil which these names symbolize are seen to grow at the expense of all others.' —*Village Communities*, p. 150 (3rd edition).

In Nímár, Chándá, and Sambalpur, feeling had so changed since the issue of the orders to which I have already referred, that great doubt was felt whether the Settlement ought not to be quashed. In the two former districts, as we shall see, the proprietorship was left, but the 'tenants' were protected uniformly, alike from eviction or from any enhancement of rent for the term of Settlement; and where the proprietary right had not already been conferred, raiyatwárí Settlements were ordered. In Sambalpur the proprietary right was confined to the 'bhográ' land.

In writing of the conferment of proprietary right in Chándá and Nímár, the Secretary of State went so far as to observe:—

> 'You were of opinion that a grievous mistake had been made in applying to these districts a system of revenue-administration unsuitable to their condition . . . . I entirely concur with Your Excellency in your view of past proceedings, and it is a matter of great regret that it is now too late to cancel entirely what has been done.'

But the other side of the question should not be forgotten. Thus, in reviewing the Nímár *Settlement Report*, the Chief Commissioner observes:—

> 'Though not proprietors in the English sense of the word, they undoubtedly had an interest in the village far beyond that of mere collecting agents. If we admit the principle that a degree of independent interest in the soil is the best guarantee both for the prosperity of the land and for the facility of collection, the pátel had obviously the first claim to selection as the representative of the village community[1].'

All that we can now justly conclude is, that if a proprietor over the whole village was, as a matter of State economy and policy, to be found, there was no one else who had (generally) any pretension to be such a proprietor but the málguzár; and the result is well summed up in the language of Mr. (now Sir C.) Grant: 'The proprietary right was created by consolidating the position of the revenue-farmers whom we found managing the villages and paying the Government revenue[2].'

§ 6. *Original Nature of Pátel's Office.*

I have already given some description of the Maráthá revenue-system (Vol. I. pp. 261, 272). I have pointed out that it did not intend to destroy the organization of the village, as long as its revenue could be collected without doing so. Every village had its staff of village servants and a recognized headman, whose office was generally, but not always, allowed to become hereditary. The headman's title is 'pátel[1].'

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[1] A striking instance of the way in which a pátel's connection with the land grew is to be found in the Chándá *S. R.* And this is the more remarkable because Chándá was one of the districts in which the evil of making the málguzárs proprietors was specially complained of. In the troublous times which followed 1804, when the Maráthá power was waning, and every district almost was a scene of struggle for the supremacy, the pátels everywhere came forward and boldly protected the villages, erecting the mud or stone forts still so commonly seen in the midst of Central Provinces villages. In such times the people leaned almost wholly on the pátel and submitted to him in everything concerning the affairs of the village. See also an account of the growth of the pátel's power under Sir R. Jenkins' system in the Nágpur Province, and the remarks on it by the Commissioner in his review of the Chándá *S. R.*, p. 10.

[2] *Gazetteer*, Central Provinces, Introduction, p. clxii.

In countries where the power of the Government was firmly established, it fixed a separate revenue for each landholder and collected it by means of the headman. This system was followed in the neighbouring countries of Berár, Khándesh, Satára, and Poona; it was essentially 'raiyatwár.' But in the Maráthá districts of the Central Provinces a somewhat different system was developed; this is often spoken of as a 'mauzawár' or village system, but it is by no means to be confused with the modern form of the North-Western Provinces Settlement, with which it has really nothing in common. Under this system, a *lump-sum for the whole village* was fixed, and the headman (pátel) made out a yearly 'lagwán,' a sort of 'jamabandí' (as it would be elsewhere called), showing what portion each man in the village was to pay, according to his holding and according to custom.

I have already stated that, where the pátel was not strong enough to secure the payments with requisite punctuality, or where from any other cause they thought it would pay better, the Maráthás either reduced him to a nominal position, or gave over the village to a revenue-farmer, who engaged to pay in the whole sum assessed. A málguzár might in this way be put over several villages, just as a 'pátel' may be head now, of more than one village.

Sir R. Jenkins, the Commissioner who so long superintended affairs during the Bhonslá Rájá's minority, before the escheat in 1854, thus describes the pátel's position as it was in 1827:—

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[1] The office of 'pátel,' or in the Marathi form pátil (often incorrectly written potel or potail), is of great antiquity. Copper grants have been dug up in Ujain addressed to the cultivators and 'patalika' of a village (Nimár *S. R.*, p. 149; see also p. 112, &c.). It is still regarded as an office of considerable dignity; great princes like Holkár and Sindhia retain the title of 'pátel'; and in some districts of the Central Provinces where there are chiefs or Zamindars, they often hold the office of pátel of their own domanial villages (see also the section on Berár tenures in vol. iii.). The hereditary character of the pátel was most firmly established in those parts of the province which had been under the Muhammadan dominion.

In Chándá, Mr. Pedder reported that of the older class of hereditary pátels, but few had had continuous possession; 290 of them held 398 villages; but of modern village revenue-farmers, 338 hold 716 villages.

'The office is held at the pleasure of Government, being neither hereditary nor saleable[1], and at the ejection or resignation of the incumbent no "málikána" is allowed[2]. Pátels are, however, frequently succeeded by their sons. Whoever the incumbent may be, he is charged with the duties and entitled to the privileges of the office, unencumbered with any interference or claims on the part of his predecessor or family. He is the agent of Government for apportioning and collecting the rent (revenue) of his village. The remuneration for agency and responsibility, paid either in money or rent-free land, is commonly one-fourth of the Government share, subject to various deductions which reduce it to about one-sixth.'

The cultivators, he adds, 'held on a yearly lease granted by the pátel.' But this only means that the Government recognized no right in the soil but its own (as conqueror), and gave out yearly leases for a certain sum; it does not mean that the pátel 'granted' as landlord, but apportioned as managing agent for the State[3].

In the first period of British administration, no change was made in principle; unless indeed, a change is implied in the fact that the leases expressly required the lessee, mukaddam or málguzár, not to enhance the raiyat's assessment during the term of the lease[4], nor to eject him. No one reading the lease, as given in Mr. Pedder's Chándá Report, could say there were the materials of a proprietary claim within its clauses. Nor could long possession be relied on: in Chándá, out of 1257 *khálsa* villages, only 453 villages were held by persons who had more than a thirty-five years' connection with the estate; but of those about two-thirds were representatives of the old pátels.

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[1] Where it was both hereditary and alienable was in the territories (including Berár) that had been under Muhammadan rule.

[2] The reader will recollect that málikána is a cash equivalent given to an ex-proprietor who for any reason has been superseded: it represents a sort of recognition of his right as 'málik.'

[3] Mr. Pedder justly points out that if it was to be urged that the pátel because of his share in the revenue and his 'haq' or right to manage leases, was to be called proprietor, the village accountant (pándyá) and pargana and circle officers (' des-mukh ') were equally entitled, as they had remuneration of exactly the same kind.

[4] He was supposed not to do so under the Maráthás, but he often had to make good defaults, &c., by imposing cesses or 'patti' as they were called. The rulers cared nothing so long as the total of the village was made good.

§ 7. *The Watandár Headmen.*

Before quitting the subject of the headman's position, under Maráthá rule, I should notice that in the north-eastern districts the hereditary character of the pátel was more assured, and that there the institution of 'watan' or lands held in virtue of office, survived. The actual official duty of headman could, of course, be only performed by one person; and the State would always interfere in case the immediate heir was not competent, and would appoint some member of the family, or even some coadjutor, to do the work. But the 'watan' itself remained in the family. It included the titles[1], the official dignity and precedence (or mánpán), as well as certain dues and fees on marriages and other solemnities, and the ownership of the 'garhí' or central enclosure of the village site. But its chief object was the land held in virtue of office, as a sort of remuneration or means of support (or both together), and lightly assessed[2]. Not only the pátel but all the village officials, were holders of a 'watan' on the same principles. The pándyá or patwárí and the 'mojamdár' (majmu'idár, a sort of patwárí of a section of a village) had each a watan, and so had the 'des-pándyá' and 'des-mukh,' who were superior headmen (over the pándyás and pátels respectively) in a whole pargana. Various other grades of village servants and even hereditary artisans (alauti) had also their petty *watan*[3]. The Government at the present day acts just as the former Government did in respect of the performance of the actual official work. It selects the heir who is most fitted; but though only one can hold the actual office, the whole family succeed together—as many as are entitled by the Hindu law of inheritance—to the *watan*. In this, consequently, there may be several shares; in fact, as many branches as the original stock has thrown out[1]. Often, when the shares were numerous, the younger branches got a plot of land rent-free in commutation of their share. There have been many cases where the *watan* has been partitioned into many shares; and this is excessively disadvantageous. In the absence, however, of any custom of primogeniture, or of one heir succeeding, it is unavoidable[2].

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[1] Nimár S. *R.*, § 187.

[2] Chhindwára S. *R.*, § 178. These lands often consisted of the best fields in the village, as the headman had great opportunities of getting what he liked into his own hands.

[3] See those described in the Nimár S. *R.*, pp. 138-40.

§ 8. *Illustrations from Settlement Reports.*

I have noticed the following instances in the Settlement Reports which may illustrate the subject of the rights of headmen, and how far they were recognized:—

In BETUL[3] the pátels had mostly been displaced, and málguzárs or lessees had taken their place, and were recognized, except in a few cases, as proprietors.

In some districts, as WARDHÁ[4] and JABALPUR[5], the málguzár, or 'revenue-engagee,' is spoken of, and it seems that here it is meant that sometimes he was an outsider lessee, and sometimes the local pátel holding the lease.

In CHÁNDÁ, again[6], and, indeed, in most of the districts which had been managed under Sir R. Jenkins' system (under which the grant to outside lessees was discouraged), the pátels had retained their place and were recognized as the proprietors, in a number of instances, as already stated.

In NÍMÁR, which is *par excellence* the country of the watandár pátels, the system preceding the present Settlement had been one practically, though not in name, 'raiyatwárí,' dealing direct with the individual land occupant; so that here also there had been no place for usurping lessees. The orders of Government first contemplated making the permanent or resident cultivators or 'júnádárs[1]' into proprietary communities, *provided they would take the joint responsibility.* But the 'júnádárs' would have none of it, and so the old pátels were made proprietors over them. In South Nímár, also, the chaudharí, a sort of 'assistant pátel,' was also recognized as proprietor[2].

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[1] In the Berár *Gazetteer* Mr. (now Sir A.) Lyall notices how in Western Central India the *watan* is more prized than anything else. Speaking of the Sindkher chief (in the south-west corner of Berár), he tells us that the family had held large jágír estates in the sixteenth century. In Upper India he would on this basis have developed to a great 'Zamindár' or 'Taluqdár,' but in the Dakhan he was content to be the 'des-mukh' of a dozen parganas, the 'pátel' of fifty villages, and in his own town of Sindkher the pluralist holder of all the grants attached to menial services—washing, shaving, sweeping, &c. The family had let go its jágírs, yet had seized every sort of *watan* on which it could lay hands (p. 101).

[2] See also Nímár *S. R.*, p. 112, and Hushangábád *S. R.*, p. 55, para. 23.

[3] *S. R.*, §§ 98, 99.

[4] *S. R.*, § 144.

[5] *S. R.*, § 92.

[6] *S. R.*, §§ 32 and 277.

In many districts it would seem that where there had been room for a possible choice between a village pátel and a revenue-farmer, as one only could be selected, it was customary to grant the other a 'málikána' or cash allowance, as compensation; or perhaps he would be allowed a bit of land rent-free.

§ 9. *Modifications in Chándá, Nímár, and Sambalpur.*

Before closing this section, I must allude to the correspondence that arose, in certain districts, out of the arrangements for conferring the proprietary title on málgúzárs.

First, a difficulty was felt in the districts of Chándá and Nímár. And then a further question was raised about Sambalpur. In this latter district it seems that the interference was rather accidental. The execution of orders to confer limited proprietary rights on the headmen had been delayed by the disturbances which continued several years after the date of the Mutiny; and meanwhile a revulsion of feeling in favour of the raiyatwárí method had taken place, and there was some hesitation in carrying out the original orders. As regards the two districts first named, there were perhaps exceptional features to be considered. But not so in Sambalpur; the headmen of the neighbouring districts of Chhattísgarh were in an exactly similar position; and with some justice the headmen of Sambalpur might ask why they were to be differently treated from their neighbours?

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[1] The word is derived from the Hindí júná = old.

[2] Nimár S. R., p. 266.

It is, however, unprofitable now to discuss what were the precise reasons why the cry for modification arose in some places and not in others. What we are really concerned with is the practical outcome of the discussion; and we may devote a brief space to a statement of the facts.

§ 10. *Sambalpur.*

Originally no separate plan of dealing with Sambalpur had been contemplated. In this district (as in the other districts of the Chhattísgarh division) the headman was called 'gáoṅtiyá' (from gáoṅ, a village). During the Mutiny the district was much disturbed under a local leader (Surendar Sái and his brother, who set up claims to the chiefship of Sambalpur). Attention was devoted for some time rather to restoring order than to prosecuting the Settlement operations; so that a delay occurred, during which, as I said, a change of feeling in favour of the raiyatwárí system took place.

The gáoṅtiyás were generally persons of higher caste, immigrants into the district, and superior to the ordinary cultivators, who were almost always dependent on them for advances, seed-grain, and for support generally, as well as for making any improvements in irrigation, so necessary in a country rather densely populated, and of which the chief staple is rice. A considerable number of the gáoṅtiyás had this additional claim, that they were 'khúnt-kati,' or the original clearers of jungle allotments and founders of the village, and had made the tanks and planted the groves for which the district is famous. There is no doubt that in Sambalpur, the grant of proprietary right had been announced in a public assembly (in 1862); and there is nothing to show that any special limitation was intended, other than those conditions which I have already explained to have been part of the original orders. The Settlement work, however, remained in abeyance, and when it was resumed, it was represented that if the gáoṅtiyá was made general proprietor of his village, his position would enable him to 'absorb all the subordinate rights, to the eventual detriment of the country[1].' At the same time it was recommended that any formal recognition of right in the cultivators should be limited, as 'they are at present quite incapable of preserving such privileges, and will throw them away for a few seers of rice[2].' There was, however, no doubt that the cultivators were entitled to a permanent enjoyment of their lands. They held certain 'púris' or lots of land representing samples of different varieties of soil, so as to equalize holdings, and the custom of 'lakhá' or periodical redistribution at one time prevailed[3]. The permanent holdings were rice-fields, but each man also held, under the somewhat arbitrary allotment of the headman, 'sikra' land, i.e. upland, on which pulses, oil-seeds, &c., are grown, without irrigation.

There can hardly be any doubt that the gáoṅtiyá's office was hereditary; indeed, the whole custom of Hindu states would have been averse to anything else in the case of men who so often were founders or improvers of their villages. The Rájá entrusted him with the lease or revenue-management of the village, and held him responsible for the village total. The period was fixed at five years or other short term, not as indicating any limit to the gáoṅtiyá's customary tenure, but merely giving the Rájá an opportunity of replenishing his treasury by demanding an increase from time to time in the shape of a 'nazarána' or renewal fee: this, however, was not always exacted.

In October, 1871, the Government of India decided what rights should be allowed; and in June, 1884, the Settlement was finally reported and approved by the Government of India. But at that time the period had only four years to run, and it expired on 30th June, 1888[4].

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[1] See Colonel Keatinge's *Minute* in the Sambalpur Correspondence, p. 5.

[2] *Ibid.*

[3] In the *S. R.*, section 228, it is noticed that the custom of lakhá-battá is dying out as it is sure to do under a system of equable assessment. Cfer. also ante, p. 144.

[4] The orders recognized that an intention to make the gáoṅtiyá proprietor had been announced, but, the Government said, inquiry having proved that reservation was necessary in order to protect the rights of others, it was necessary to define what was meant, consistently with those rights. 'He (the gáoṅ-

The gáoṅtiyás were declared proprietors of their 'bhográ' holding, tenants on it being tenants at their will. They were further allowed to hold so much of it revenue-free as amounted to one-fourth of the village-assessment[1]. In these areas they have been given full proprietary-right, including right of transfer[2]. They are responsible for the revenue of the village. With the remainder of the village area, *cultivated at Settlement*, they have no concern, except as collectors of revenue. Of this area, a small part is held on service-tenure by village servants. In the rest, the tenure is raiyatwárí, but the raiyats may not sub-let for a period longer than a year, and may not alienate. If a holding falls vacant, the gáoṅtiyá—as manager, not as proprietor—arranges for a new raiyat at Settlement rates. As regards *new* land, cultivated since Settlement, Government waived its right, and allowed the gáoṅtiyá to appropriate the rent, which is to be levied at rates not exceeding those of the Settlement for the village.

In sanctioning the Settlement, the Government of India called attention to the fact that the raiyat is a revenue-payer, not a tenant paying rent, though the definition of 'tenant' in the Rent Act of 1883 might cover his position; but this would be made clear at the new Settlement, when rights of all parties would be carefully defined and recorded.

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tiyá) was led to expect a heritable and transferable right to something; what that something is has never been defined, but it implies at any rate a superior *status* and a profitable income.'

[1] Thus, supposing the total of the raiyatí assessment is R. 500, the gáoṅtiyá will be allowed *bhográ* free of revenue to the extent of R. 125, and should his *bhográ* be so small that the whole, if assessed, would only pay, say R. 100, he would be allowed the remaining R. 25 in cash, i. e. in the shape of a deduction from the revenue-collection he paid into the treasury. In many cases, either owing to the gáoṅtiya being an absentee or otherwise, I find there are 'shikmí gáoṅtiyás' who actually manage the village and hold the bhográ lands, and they then pay a 'málikána' or money allowance to the 'titular' gáoṅtiyá (see *Correspondence*, p. 116, &c.; and *S. R.*, sections 213-217).

[2] But the transfer carries with it the responsibility of revenue and the duties of village head (see *Government of India Orders*, 1871).

§ 11. *Chándá.*

The correspondence about the district of Nímár and the large southern district of Chándá, took a different ground. It arose after the Settlements were completed; and Government naturally asked why, if there were special difficulties about the position of the málguzárs and tenants respectively, these had not been reported for orders before completing the Settlement. In the end, it was decided that the entire Settlement could not be revoked. After many letters and reports, among which Mr. Pedder's (then Commissioner) on Chándá, and Mr. W. B. Jones' on Nímár, are full of interest, the matter was settled by a Resolution of the Government of India (No. 526, dated 21st June, 1875).

It was reported that in Chándá, the village heads, who had been made proprietors, were often Maráthá court-favourites, who had obtained assignments of the villages, and that they were never in any degree proprietors, nor could they partition their estate; and consequently it would be unjust to make the village *raiyats* into mere tenants.

It was decided, however, not to withdraw the gift once made; but the terms of it enabled the Government, in fact, sufficiently to secure the raiyats. For the gift of proprietary-right was admittedly without prejudice to the rights of others; and, therefore, the position of the málguzár could be 'so defined as not to trench on the rights of other classes, who, by custom, have claims which at first were not sufficiently understood.'

(1) The first broad principle is that *all* village-tenants in Chándá were granted occupancy-rights[1]. Some had been already recognized as absolute occupancy-tenants and plot-proprietors at Settlement; but the *whole* of the tenants on *raiyati* land, were made occupancy-tenants,

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[1] The orders appointed an officer to settle all rents (except those in the proprietor's home-farm) for the term of Settlement, according to certain rent-rates to be laid down for three or four classes of soil in each village. Rents so laid down can only be enhanced by the Court on certain specified grounds.

with certain provisions as to the fixity of their rent. All of this is now given effect to by Section 41, Rent Act (IX of 1883). The tenants on the málguzár's own holding are not, I may repeat, included in this; they are tenants-at-will.

(2) As regards the partition of estates, the Government did not object to partition (as among shareholders) of the enjoyment of the property; but the village cannot be subject to 'perfect' partition, i. e. so as to separate the revenue-responsibility, without the Chief Commissioner's consent.

It may be here mentioned that the division of estates, or the existence (undivided) of a number of co-sharers in the málguzárí, and the frequent non-residence of proprietors, have given rise to various rules about the appointment of muqaddams, or resident executive headmen, as separate from the lambardárs responsible for revenue: this subject can best be dealt with when we speak of village offices under the head of 'Revenue officials.'

(3) As regards the waste allotted to and included in, village-estates (as already described), certain principles were laid down. Generally, the proprietor has the right to this waste, subject to rights of user by the tenants. Resident cultivators (i. e. of three years' standing), when they are assigned waste for cultivation, must not be charged a rent higher than the highest rate for occupancy-tenants under the rules. Other cultivators on the waste must make their own terms; or, if they enter without lease, they will be deemed 'to hold on customary tenure.'

In this district, twenty-four villages, which had not been already conferred on málguzárs, were declared *raiyatwárí*, and settled accordingly.

§ 12. *Nímár.*

In Nímár, which had felt the preservative effects of the Muhammadan Dakhan rule, the original raiyats and the headmen had kept their relative positions much better than in the Nágpur districts. The Maráthá rule in Nímár, it will be remembered, only began in 1740; so that there was not the same opportunity for the growth of new positions. The difficulty of modifying the Nímár Settlement would have been all the greater because it was not (like that of Chándá) a first regular Settlement. Provision was accordingly made to secure to *all* tenants (except those on the proprietor's own lands) the occupancy-right with its rent-privileges. Moreover, the plot-proprietors (málik-maqbúza) were here granted a certain interest in the waste. They can claim to be allowed to break up and cultivate an amount of waste bearing the same proportion to the entire culturable waste, as the area of their holding bears to the entire cultivated area of the village; provided that, if the 'málik-maqbúza' has already in his holding uncultivated but culturable waste, the amount of this is to be deducted from the claim. The málguzár is, however, not bound to give waste for cultivation (on these or any other terms) if he is prepared to establish, that 'to give out such land would be injurious to the revenues or to the common interests of the village.' The málik-maqbúza, refused on this ground, may refer the matter to the Deputy Commissioner, whose order will be final.

The málik-maqbúza has to pay, for waste allotted, the average rent-rates applicable to the class of land. He cannot sub-let the land, except so far as allowing *members of his family* to work it can be called sub-letting.

The privilege thus described constitutes a sort of 'first refusal' of the village culturable waste to the plot-proprietors; if they do not 'take advantage of this privilege, by taking up the waste land thus assigned,' it will be available for other cultivators.

(4) As to the rights in land being alienable, the proposal to limit the power of the málguzár was negatived. Absolute-occupancy-tenants cannot transfer or mortgage (without consent of the landlord) except to a co-sharer by inheritance, or to a person on whom the holding would devolve on the death of the present holder.

The actual provisions of the law regarding occupancy-tenants will be stated further on, when we examine the Tenancy Act as a whole.

§ 13. *Effect of the Settlement on Districts generally.—The Raiyatwárí System.*

Though no special arrangements for other districts were made, it is to be remembered that the result of the Settlement, generally, has been to secure a favourable status for all the old tenants. And a portion of the country is raiyatwárí, as now distinctly provided in the Act (see p. 439). Not only is Sambalpur so, but, as already stated, some twenty-four villages in the district of Chándá were so declared, and there was also a large area of waste, in which there was, or would be, cultivation; here also the Settlement was ordered to be raiyatwárí when the cultivators got settled and aggregated [1].

In Nímár, I notice that, out of 1524 villages, 645 are regular málguzárí estates; all the rest are either villages under Waste Land Rules, or are inside Government forests; these latter, I presume, would be practically raiyatwárí.

In many other districts, villages (being small plots inside the waste) were not made over to any proprietors, and these will remain raiyatwárí.

SECTION IV.—REVENUE-FREE OR QUIT-RENT TENURES, BY GRANT FOR SERVICE, &c.

I have already explained that the Zamíndárí, Jágír, and Taluqdárí estates cannot be brought under this head as they would be in other provinces. They are survivals of old chiefships, and do not represent direct *grants* of the ruling-power. There are, however, tenures to be found which are directly due to grants of the State revenue, or to the State foregoing its right to assess.

The Maráthás were not fond of service or revenue-free grants, and, when these had been made by former rulers, they generally imposed a quit-rent or a partial assessment on them.

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[1] See p. 109 of the *Correspondence on the Chándá Settlement*, 1886. (Printed at Bombay.)

§ 1. *Ubárí or Mukta Tenures.*

Large grants in the Ságar-Narbada territories of this class (but paying a quit-rent) are called 'úbárí,' and, in the Nágpur territory, 'mukta'; where the grant was quite revenue-free, it is called 'Mokásá[1].' The grant was (variously) in perpetuity or for life or lives. The policy of the British Government has been to recognize the grantees as proprietors, and to continue the grant, but, as far as possible, to minimise the loss of revenue by imposing a partial assessment. For this purpose, the old Maráthá kámil jama' was ascertained, and the quit-rent assessed was a certain proportion ($\frac{1}{2}$ or $\frac{3}{4}$ or $\frac{5}{8}$) of this. Should the full revenue valuation be revised, it follows that the quit-rent also will be liable to enhancement.

It was found in this tenure, (as usual where there is a grantee and inferior holders under him) that the 'úbárídár' might have lived away from the estate and merely drawn the cash-rent; or he might have taken the management so far as to grant leases to middlemen and make his own conditions; or he might have directly managed the estate, improved it, and spent money on it. It was finally decided that all rights should be examined into, and such rights as existed, be secured by record.

The larger 'úbárí' estates were, in the matter of right to the adjoining waste, treated like Zamíndárís; they were allowed 'manorial perquisites' (whatever that may include) in forests and wastes belonging to the estate. But the smaller úbárí tenures were treated in this respect as ordinary village or málguzárí estates.

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[1] The holders are 'úbárídárs,' 'mokásádárs,' &c. There was a long correspondence as to whether subordinate rights under proprietary grantees of this class should be inquired into. See the collection of orders called *Settlement Code*, Circular B, and Appendix, &c. I retain the usual form 'mukta' as I cannot trace the word or learn its real origin and spelling.

§ 2. *Inám and Muá'fí.*

Besides these, there are the revenue-free grants, which sometimes cover a whole village, but oftener are small ''ináms,' or grants of plots of revenue-free land, made on charitable, religious, or petty service considerations. The holders of these are the 'mu'áfídárs,' or, as they are called in the Nágpur country, 'mokásádárs.'

There was a good deal of correspondence about these grants. They always involved the proprietary-right[1]. They were all to be investigated, and their validity determined, before the Settlements closed. A number of them were, as usual, found to be invalid or had lapsed; and it had to be determined for those maintained as valid, whether they were to be held in perpetuity, for life, or for the term of Settlement. It is not necessary here to go into detail on this subject, as all such cases have long been settled[2].

§ 3. *Tukum of the Nágpur Country.*

A curious tenure of the Maráthás is mentioned (occurring only in the Nágpur country) in the *Chándá Report*, and called 'tukum.' It was a grant made to a person who would dig or embank a tank, and was of as much land (waste) as the tank would water; the rate paid for the grant was small, and called 'mundsára,' but (in theory) it was enhanceable.

A fine or fee was usually paid for the grant, and so with mukta grants[3].

SECTION V.—INFERIOR PROPRIETARY-RIGHTS: SUB-PROPRIETORS.

The reader will have already gathered from what has been said, that, in the Central Provinces, the determination of the variously-originating proprietary-claims, necessarily gave rise to many cases of double tenure—an upper and an under proprietary-right.

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[1] See Chándá *S. R.*, § 276.

[2] When lands were granted in Chándá on a free tenure, if it was a whole village, it was called 'mokásá'; if a part only, it was called 'vritti,' which is the Sanskrit form of 'birt,' a term we are already familiar with. (*S. R.*, § 360.)

[3] *S. R.*, § 363.

§ 1. *Inferior Proprietors in Large Estates.*

In the Zamíndárí and taluqdárí estates, I have already explained how various are the conditions which result from the Settlement. Putting aside the Feudatory States in which the raiyats are the Chiefs' subjects; in the ordinary estates there may be either no inferior proprietors—all raiyats being tenants under the Zamíndár—or there may be the taluqdárí tenure of North-Western India, where the Settlement-holder is the 'superior' proprietor, and there may be village-owners as the 'inferior,' protected by a sub-Settlement; or there may be individual plot-proprietors. In Sambalpur, it is noticed that there are many cases where the actual gáoṅtiyá is an absentee, or for other cause has made over the management of his village to a 'shikmí gáoṅtiyá'; in that case, the 'shikmí' has usually been regarded as 'inferior proprietor,' and the gáoṅtiyá as the 'superior'[1].

§ 2. *The Málik-maqbúza.*

We must, however, specially notice the common institution of 'plot-proprietor,' which was one of the direct results of the grant of málguzárí rights over villages, the individual cultivators in which did not form a joint body.

The orders conferring the status of general village-proprietor on the málguzár, were, as we have seen, carefully hedged round with precautions. Though in itself as nearly a full 'property' as possible—i. e. a heritable, transferable, and divisible one—the málguzár's right was not to extend so as to trench on any other rights.

Consequently, a number of permanent cultivators who, under a raiyatwárí system, would have been independent 'occupants,' were recognized as málik-maqbúza,—full proprietors as far as their own holdings went, and with certain privileges (especially in Nímár, see p. 475, ante), but not entitled to share in the management or profits of the village or estate at large. The málik-máqbúzas, as I have said, do not form an inferior proprietary *body*, whose right extends over the whole estate, though in a secondary or inferior *degree* (as in a case of double tenure), and they were not, therefore, entitled to a sub-Settlement, unless the Settlement Officer thought it desirable to make one[1].

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[1] See Sambalpur *S. R.*, sections 210-217.

The policy followed at Settlement, in conferring these rights, varied a good deal[2]. In some districts, but few málik-maqbúzas were created, the status being restricted to persons who actually held plots of land on titles stronger than those of the ordinary cultivator. Such were the descendants or relatives of former pátels, or persons who had held rent-free, or on the 'watandárí' title, or who had planted groves or orchards (and were called bág͟híchadár). In other districts, on the other hand, the Settlement Officer declared as málik-maqbúza all raiyats of long standing.

All other tenants who had any claims to consideration, were originally intended to be provided for as occupancy-tenants. Act X of 1859 had been introduced; but there was some doubt as to how far it could be retained or would require modification; so tenants put down as 'occupancy'-tenants were recorded at first, as 'shartiya'—or conditional—indicating that their status was subject to revision, if necessary.

The following classes of claimants were, as I gather from the reports, pretty uniformly recognized as málik-maqbúza:—

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[1] Act XVIII of 1881, section 64. As to the legal meaning of the term, see Definition Clause, *sub voce*. Compare also definition of 'tenant' in Act IX of 1883. Under this the málik-maqbúza is not a tenant; he does not hold his land of the málguzár, nor is he liable to pay rent to him. The málik-maqbúza's payments are the *revenue*, plus a haq-ul-tahsil or percentage to the málguzár for his expenses, and to pay the fees of headman in the village.

[2] The orders of 1853 (North-Western Provinces Government No. 173 A., dated 30th November) declared that 'all cultivators who have been in possession of their holdings since 1840' should be deemed to be, in the absence of other and stronger claims, entitled to full proprietary rights,' (i.e. in their own plots).

Village headmen and others who had founded villages, cleared waste, &c., but had now sunk into a secondary position.

Thekádárs or lessees of villages (located by the superior), whose connection with the estate was so close and permanent as to demand recognition[1].

Cadets of families who had been assigned separate lands for maintenance[2].

Cadets and members of a málguzár's family divided off and holding land rent-free or at quit-rent in lieu of a general share[3].

Former málguzárs, &c., who had been ousted, but had retained the lands of their old 'watan' or some 'haq' in recognition of their former character.

Holders of resumed revenue-free grants.

But, then, besides these, it was the intention of the Settlement orders to acknowledge also as málik-maqbúza, cultivators of long standing, who were to be protected, 'on the ground of their continued occupancy'; they were, in fact, cultivators who had held the power of transferring their holdings, who had spent more than ordinary capital on the land, and who had, perhaps, held long before the present owner came into connection with the village. This intention, it would seem, was not fully carried out; and some of such old cultivators had simply been put down as 'occupancy-tenants.'

§ 3. *Provision made for other Classes.*

Some desire was naturally felt to equalize the results of Settlement, and to secure the rights of those who had not been recorded as málik-maqbúza; the more so as it was doubted whether Act X of 1859 (enacted as it was for a state of things totally different to what existed in the Central Provinces) would afford adequate protection. This Act did not make any reference to the facts or circumstances of a tenancy as affording the ground for protecting the tenant by giving an occupancy-right; it merely said that every tenant who had held for twelve years could not be ejected, except on certain conditions proved in court; and that he could only have his rent enhanced in a certain way. Any tenant, therefore, put on the register as a 'conditional occupancy-right tenant,' would have nothing recorded of him beyond the fact of twelve years' occupancy, any special history or feature of his holding being, legally speaking, surplusage. Should, then, the Act be repealed or modified (as was then expected), such tenants might lose their protection against ejection and enhancement; and this would be a very undesirable result. For many such tenants would in reality be able to rest their claims on stronger grounds than a mere twelve years' possession, and those claims consequently deserved recognition in such a way as would make them independent of any change in the law. Accordingly, in 1863, the Settlement Commissioner, by circular, called attention to this subject, and wished to point out the real difference between a person entitled to be called 'proprietor of his holding' and one who would be merely an occupancy-tenant under the Act. The Government of India was referred to, and the result was that the order well known as 'Circular G (1865)'[1] was issued: this solved the difficulty by ruling that tenants in six classes specified, should be protected by being recorded as 'unconditional[2],'—i.e. not liable to be ejected, *even if Act X were repealed.* The protection was to be effected by entering clauses in every 'wájib-ul-'arz' (or paper notifying the customs of the village and its administration) agreeing, on the part of the proprietors, to the absolute right of such tenants. The clauses declared the rents to be fixed for term of Settlement and the tenure heritable and transferable (subject to paying a 'relief' of one year's rent to the superior or owner).

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[1] The position of a lessee might vary from that of a mere contractor who had undertaken to realize the proprietor's rents, to that of one who had advanced money, improved the estate, and closely managed its affairs. See *Settlement Orders*, No. LXXIX.

[2] See Narsinghpur *S. R.* In some estates there was a strong repugnance to recording the lands as divided, or the members of the family as separate sub-proprietors; this from motives of maintaining the family dignity. See also Hushangábád *S. R.*, p. 163, section 39.

[3] Hushangábád *S. R.*, p. 168, section 52.

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[1] Printed in *Settlement Code* Supplement), and also in Nicholls' *Digest*, vol. ii. p. 430.

[2] They were often spoken of as 'Circular G tenants,' and '*mutlaq*' or absolute, also '*mustaqill maurusi*' or fixed hereditary tenants. They have now been finally designated as 'absolute occupancy-tenants.'

The grant of this unconditional or (as it is now called) absolute, occupancy-right, was sanctioned to the following classes of tenants:—

I.—Raiyats whose possession has carried with it something of an hereditary character.

II.—Raiyats who have expended such capital on their fields as to give them some special title to occupancy-right.

III.—Raiyats who are relations of present or former proprietors, and whose occupancy-right may be considered to some extent as a substitute for a share in the proprietary-right.

IV.—Raiyats of new villages who have held their fields since the village was founded, or since those fields were reclaimed from the jungle.

V.—Raiyats who have held their fields from a date antecedent to the proprietor's connection with the village as its landlord.

VI.—Raiyats whose claim to occupancy-right rests on bare possession of twenty-five years or upwards.

The last clause was subsequently modified and the following substituted for it:—

'Raiyats cultivating lands which have descended to them by inheritance[1], provided that the possession either by themselves, or by themselves and some other persons from whom they have inherited, shall have lasted continuously for not less than twenty years.'

When these six classes were provided for, all other tenants might very well be left to whatever rules the Tenancy Law enacted for their protection. Here we have historically the origin of three of the classes of tenant now found in the current law (Act IX of 1883).

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[1] To establish occupancy-right under this rule, the cultivation must be so old as to have descended by inheritance to the present occupant.

§ 4. *Tenant Rights Controversy in 1868.*

When the Circular of 1863 was issued, it laid on the person claiming rights which were independent of mere length of possession, the burden of proving the facts or circumstances of the tenure, on which he relied. Mr. Campbell, the Chief Commissioner, however, thought it more proper to assume the rights and lay the burden of disproving them on the málguzár. A very long correspondence took place. The orders of 1863, as to the burden of the proof, were cancelled formally, but no material change was made as to the tenants actually protected, and the subject is now of no interest[1].

§ 5. *Abstract of Subordinate Rights.*

Mr. Fuller has made out the following abstract, which shows the extent to which plot-proprietary and tenant-rights were conceded under the orders:—

DISTRICT.	PERCENTAGE OF TOTAL NUMBER OF RAIYATS.		
	Made málik-maqbúza.	Made absolute occupancy-tenant.	Made occupancy-tenant.
Ságar	8	17	10
Dámoh	6	27	11
Jabalpur	4	18	6
Mandlá	2	6	7
Seoni	1	10	13
Narsinghpur	1	24	29
Hushangábád[2]	1	34	15
Nímár	46	1	10
Betul	0.6	17	22
Chhindwárá	1	21	13
Wardhá	4	12	26
Nágpur	17	22	19
Chándá	12	29	11
Bhandárá	4	18	14
Bálághát	2	15	18
Ráipur	2	15	12
Biláspur	2	16	7

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[1] As a matter of fact, the question whether the burden of proof is on one side or the other, is of less importance when people have proof on either side; it only becomes important when the Court has to decide, according to the legal rules of evidence and presumption, because there is no reliable proof one way or the other.

[2] I cannot reconcile the figures for Hushangábád with the state-

§ 6. *Résumé of Subordinate Tenures.*

The *Administration Report* of 1882–83[1] classifies the 'subordinate tenures not held direct from Government' as follows:—

(*a*) Lease-holders of estates who have been recognized as inferior proprietors, and whose tenure is a permanent one, both heritable and transferable, as long as the fixed annual payment to the superior proprietor is made;

(*b*) lease-holders whose tenures are limited by the terms of the agreement entered into with the proprietors.

The first of these classes comprehend all the cases of secondary right in taluqdárí, táhuddárí, and other estates where there is both a superior and an inferior right, over the whole; it includes, also, cases like that of the 'shikmí gáoṅtiyá' of Sambalpur: in these cases the proprietor-gáoṅtiyá being non-resident, has created a *permanent* managing lease under him, and takes his 'málikána' or superior proprietor's dues only. The case (*b*) covers that of thekádárs or managing-farmers put in by the superior for a term and on conditions, stated in the lease; a thekádár is not, for the purposes of the Acts, a 'tenant.'

(*c*) Proprietors of their holdings called 'málik-maqbúza.' This class possess full proprietary rights [in their individual holdings], with free power of transfer or division. The revenue-quota is fixed on the lands held by them, on which they also pay a stated percentage to cover risk and expenses of collection.

(*d*) Holders of land in lieu of wages (for village service, &c.). In some cases, owing to long possession, the holdings have become hereditary, though in the majority the tenure was absolutely conditional on the continued

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ment in the *S. R.*, p. 169, § 53. It would appear from the latter that the 'absolute' tenants were few and the plot-proprietors many.

In Wardhá some 14,902 persons were admitted as plot-proprietors on the ground of their being representatives (calling themselves mukadam) of old 'proprietary' families. —See *S. R.*, § 203.

For the way in which sub-proprietary claims were dealt with in other districts, see the *S. R.*, Nágpur, §§ 19-21; Chándá, § 369; Bhandárá, § 203.

[1] P. 21.

adequate performance of the service for which they were granted.

(*e*) Holders of rent-free and quit-rent grants according to the terms on which held ('ubárí,' 'mú'afí,' 'mukta,' 'múkása,' &c.) [when these occur in subordination to a general landlord].

The rest enumerated are *tenants*, whose rights, commencing with the 'absolute occupancy' tenant, gradually shade off, as it were, from something (in practice) hardly distinct from a sub-proprietorship, down to the ordinary tenant-at-will, whose right, however, is still a protected right under the law of 1883–9.

SECTION VI.—TENANTS.

It will be most convenient to deal with each class as it appears in the amended Tenancy Law[1], and then to note the provisions which protect and render valuable the tenant's holding.

§ 1. *General Provisions of the Law.*

Act IX of 1883, sec. 4. There are five classes of tenants recognized—the 'absolute' occupancy-tenant, the occupancy-tenant, the village-service-tenant, the sub-tenant, and the ordinary tenant.

Secs. 5 12. The first provisions of the Act state certain matters *common to all* tenants; such are, that when rents are fixed, they take effect from the beginning of the next following agricultural year; that rents are to be paid by such instalments as the Chief Commissioner may fix[2]; that where rent is payable to a number of landlords[3], the tenant may compel them to nominate a single receiver; that he may deposit his rent in court in certain cases; there is the usual prohibition of any demand for rent in excess (or in advance), and a penalty for refusing to give a receipt for rent.

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[1] Act IX of 1883 came into force on 1st January, 1884. (Notification No. 5454, dated 15th December, 1883), and see *Revenue Circular*, section 1, Serial No. 2. It was amended by Act XVII of 1889, which came into force at once (received assent 29th October, 1889).

[2] The rules for rent-instalments are in *Revenue Circulars*, section 1, Serial No. 11. In number they follow the revenue-instalments. Speaking generally, occupancy-tenants pay fifteen days, and ordinary tenants one month, before the revenue-instalment falls due.

[3] Which may result from partition or from a 'joint' holding.

Sections 13 and 14 introduce a general power of *enhancement* which applies (in these two special cases) to *all* tenants, and can only be prevented by a special written contract. If the landlord has made an improvement, and so the productive power of the holding is increased, the landlord can apply to a Revenue officer to enhance the rent. Section 14 deals with what is not really an *enhancement*, but is an increase of rent granted on the ground of increase in area of the holding if the rent is payable in money (such increase may be by encroachment, action of a river, or other cause). The section allows a corresponding reduction where the holding is reduced by the landlord's encroachment or by diluvion, or is deteriorated by a cause for which the tenant is not to blame. Secs. 13 14

Certain other cases of alteration of rent are also contemplated. They arise where rent has been fixed, but land-revenue is assessed for the first time, or is altered, so that the rent may need to be altered also by a Revenue officer. Secs. 15, 16

This section 15 is an important one, because it is made use of to *enable* the Settlement Officer to adjust the rents of ordinary tenants at Settlement, in the same way as he is *bound* to do for occupancy-tenants under other sections. Sec. 54 A has to be read in connection with this provision. Sec. 54 A.

The assessment system contemplates the ascertainment of *all* rents as the basis for calculating the revenue. When, therefore, irrespective of any direct intention to discover rents *binding on the parties*, the Settlement Officer has fixed a rent on an ordinary tenant's land, the landholder may require the tenant to pay that rent, instead of relying on any contract or proceeding of his own. If he does so, the rent must be accepted for a period of *seven years*.

Occupancy-tenants of both classes (except when holding under a waste-clearing contract) can apply to have their *rent in kind* commuted *into a money* rent. The Settle- Sec. 16.

ment or Revenue Officer (as the case may be) has power, if objection is offered, to refuse the commutation.

Secs. 17-24. Another important general provision is *the landlord's lien on produce*. These novel and convenient provisions are designed to *replace the old power of distraint* so liable to abuse. A notice is served prohibiting removal of the crop, or the garnered grain; and then a suit for the rent being lodged (the prohibition being maintained the while), the decree will be a first charge on the grain.

Secs. 25-28. I pass over sections 25 to 28, which need no comment.

Secs. 29-32. The general subjects of *Improvements*[1] may be noticed as affecting the terms of the tenancy-right.

Without going into all the details, I may say that both classes of occupancy-tenant have the *right* to make improvements, while ordinary tenants have not: the *right* is in the landlord; but in either case the landlord and the ordinary tenant respectively have some remedy. If the ordinary tenant (not being a tenant on the landlord's home-farm land) thinks an improvement ought to be made, he can send a written demand, and then (subject to *rules* under the section) on refusal or neglect of the landlord, he may make it himself. So where the occupancy-tenant does not make an improvement which the landlord thinks he ought to make, the landlord may serve a written demand and, failing compliance, may make the improvement himself.

Secs. 33-35. Sections 33 to 35 deal with *surrendering land* where there was no written lease, and with the consequences of leaving the holding uncultivated.

The new sub-section (4) to section 33, provides for the case of raiyatwárí Settlements, where (as usual) the holder can throw up his land without any liability, even though he has not given notice, in case he does not accept the rent fixed.

§ 2. *Absolute Occupancy-Rights.*

Sec. 35 A. Before proceeding further, it should be remembered, that where persons accept permission to cultivate land in a

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[1] See *Revenue Circular*, section 1, Serial Nos. 6 and 7.

State forest ('Reserved' under the Act of 1878), no tenant-rights under the Act are acquired.

Chapter III deals with the 'absolute occupancy-tenant' whose origin I have already explained in detail—

(*a*) The persons entitled to the right are those who were (themselves or their predecessors in title) recorded, at a Settlement before the Act came into force, as such; Secs. 36-40.

(*b*) the rent is fixed by the Settlement Officer and holds good for the term of Settlement;

(*c*) the right devolves if it were property in land;

(*d*) it is transferable; subject only to certain conditions giving the landlord an option of buying or of taking a fine for the transfer. Contravention may make the sale or contract void, as against the landlord, but does not work the eviction of the tenant;

(*e*) an absolute occupancy-tenant cannot be ejected by his landlord, as such, for any cause whatever; an entry in the record of rights notwithstanding.

§ 3. *Occupancy-Tenants.*

Chapter IV deals with occupancy-tenants (not being 'absolute'). Sec. 41.

The right arises in favour of any one who, when the Act comes into force, has (otherwise than as an absolute occupancy-tenant or a *sub*-tenant) 'continuously held the same land for twelve years[1].' This does not apply to tenants on the proprietor's home-farm or 'sir' land, or to certain other lands, nor to tenants holding under an express contract (in writing) that the right of occupancy is not acquired, or that the tenant is to quit on expiry of the term. See definition, sec. 3 (cl. 11), as amended.

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[1] It will be observed that (save in the special districts Chándá, Nimár and Sambalpur above mentioned) tenants will not *become* occupancy-tenants by holding for twelve years; they must have *been* so on 1st January, 1884.

This point of difference between the Central Provinces law and that of North-Western Provinces and Bengal should be borne in mind.

§ 4. *Sír Land.*

It is here necessary to explain that the first definition of 'sír' land in the Land-Revenue Act, section 4 (clause 6) of 1881 (and so in the Tenancy Act) did not effect its object. The landowner is always understood to have his home-farm under his own control, and rights of occupancy do not grow up in it; but both proprietors and tenants had a grievance under the first definition. Mr. R. Crosthwaite thus explained the subject in introducing the amending Act:—

'By the Tenancy Act of 1883 a proprietor has rights in his "sír land" which he has not in other land. He can at his pleasure enhance the rent of the tenant of "sír land" or eject him. The amendment, therefore, of the definition of "sír land" affects the rights both of the landlord and the tenant and requires most careful consideration.

'The present definition was first enacted in the Land-Revenue Act of 1881, and, though it was not considered to be free from objection, it was thought advisable to follow it in the Tenancy Act of 1883. That definition made the following descriptions of land to be sír land:—*First*, the land recorded as sír at the last Settlement; *secondly*, land which the proprietor had cultivated himself for twelve consecutive years; and, *thirdly*, waste land which the proprietor had broken up and cultivated for six consecutive years. Now, it was obvious that, if the proprietor could make land sír by cultivating it for twelve years, he could, in the course of time, by ejecting tenants and cultivating their land for twelve years, convert nearly the whole village lands into sír lands. The result would be the destruction of the tenant-right which it was the object of the legislature to preserve. To prevent this result it was provided in an *Explanation* to the definition that, if after the date of the Settlement at which the land was recorded as sír, or after the land had become sír land under the twelve and six years' occupancy rule, the land was unoccupied by the proprietor for six consecutive years, it would cease to be sír land, unless it had been leased to a tenant with an express reservation of sír rights. It was expected that the proprietor would not be able to cultivate more than a certain quantity of land, and that consequently, if he acquired sír under the twelve years' or six years' rule, he would lose that or other land under the provision contained in the *Explanation*. This expectation has, however, not been realized. Once having made land sír, the proprietor can let it with an express reservation of his sír rights to a tenant and so keep it sír. It is also found that by a system of cultivating the land in partnership with a raiyat, the proprietor can manage to farm a large area himself. The proprietor supplies the seed or part of the labour, or only the land, and shares the produce with the raiyat. The tenants of sír land being unprotected against enhancement and ejectment, there exists a powerful incentive to evict tenants and to convert the land into sír. The tendency of the law is, therefore, to promote a contest between landlords and tenants which may have a most injurious effect.

'In some parts of the country this tendency has hitherto not operated to disturb the relations between them. "The great majority of málguzárs are," Mr. Mackenzie says, "still under the influence of the idea that the raiyats of a village are free from interference except at the time of Settlement—an idea which has come down to them from the days of native rule, and which has furnished so sure a basis for the tenancy legislation of the provinces." But it cannot be expected that, the law being as it is, the landlords will remain under this influence. In parts of the provinces the struggle to make the raiyatí lands sír lands, has already begun. It has been ascertained that in fifty-six villages of the Hushangábád district the landlords now hold 28,697 acres against 13,718 acres held by them at the last Settlement, whereas the raiyats hold only 44,483 acres against 55,506 acres at the last Settlement. The cultivated area of these villages has increased by under ten per cent., while the portion of it held by the landlords has more than doubled. The contest in this respect between the landlord and tenant is strongest where the proprietary right in the land has passed to the money-lending classes, who are not restrained by old customs and the kindly relations which existed between the old landholding families and their tenants. In conferring proprietary rights in the Central Provinces it was never the intention of the Government to destroy the rights of the tenants, and in order to preserve these rights a limit must be placed on the conversion of raiyatí land into sír land.

'The landlords also have a complaint to make against the present definition of sír land. Before the Act was passed, a tenant-right could not be acquired in sír land let to a tenant. Under the Act, if a landlord lets his sír land to a tenant without an express reservation of the sír rights, and if the tenant holds for six consecutive years, the sír rights are lost. Many of the landlords through ignorance of the law have omitted to make this reservation, and have thus lost their rights in the land which they had for years regarded as their own peculiar home-farm. This state of the law has given great dissatisfaction to the landlords. . . .

. . . .

'The proposal to amend the definition has not been adopted without the most anxious consideration . . . but it is considered that without the amendment, the contest between landlord and tenant, which has already commenced, cannot be put a stop to, and that the respective rights of the landlord and the tenant cannot be preserved.'

Sec. 3. cl. 11, and Exp.I–III.

The amended definition accordingly leaves the landlords to enjoy as their home-farm or sír all the land which they have been cultivating for twelve years, on the 29th October, 1889[1], and all waste land which they have broken up and cultivated for six years (including such fallow periods as custom recognizes), provided that the entire area of *sír* does not come up to more than 25 per cent. of the entire cultivation of the estate. There is now no rule that 'sír' rights may always be lost by letting the land out of the hands of the proprietor for six years.

But land that had been unoccupied for six years consecutively on the 29th October, 1889, and counting back to the former Settlement, to the expiry of twelve years, or of six years, as the case may be, ceases to be *sír* land, whether once occupied *before* that or not[2]. Land is not understood to be 'unoccupied' by a landlord if he has let it on the express understanding that he is not giving it out of his hands. It should be noted that the loss of land once sír, by leaving it unoccupied, does not occur in bhográ land (Sambalpur). The rights of the gáoṅtiyás are already so limited there, that there was no object in adding this further restriction.

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[1] The date of the commencement of the Central Provinces Land-Revenue Amendment Act, 1889.

[2] E.g. a proprietor held land *entered* as sir at a Settlement (let us suppose) concluded on the 31st December, 1881; he ceased to cultivate it as sir on 1st July, 1883, and was out of possession on 29th October, 1889; the land would cease to be sir. Or, suppose a man had just completed the twelve years occupation—necessary to make the land sir—on the 31st December, 1884, and then stopped cultivating. On the 29th October, 1889, six years cessation would not be complete, so the land still remains sir. The same would hold good if the land had been *waste* and six years hold-

This is what is meant by Explanation II to the definition:—

> 'The amendment, therefore, will, as far as possible, secure rights already acquired over *raiyatí* land, while limiting their acquisition for the future. It is not intended, however, to restrict unduly the acquisition of sír land by a proprietor. It is, therefore, provided by section 69 (as amended) that the Settlement Officer shall record as *sír* all land which he finds has been cultivated by the proprietor for twelve consecutive years, subject to this proviso that *raiyatí* land which has been so cultivated shall not be recorded as *sír* if the total area of sír land in the mahál would thereby amount *to more than a quarter of the cultivated area of the mahál*. In effect, therefore, the landlord will have ample power to increase his sír land by breaking up waste land and cultivating raiyatí land, while he will not suffer the loss of his sír rights through ignorance of the law or neglect to secure them by an express reservation. The tenant, on the other hand, will be protected against the loss of the raiyatí land by an excessive conversion of such land into sír. It is hoped that these amendments will effect a substantial improvement in the law.'

L.-Rev. Act, sec. 69.

§ 5. *Special Cases of Occupancy-Tenure.*

In Chándá, Nímár, and Sambalpur, *all* tenants (not on *sír*, or as it is called in Sambalpur bhográ, land) holding on the 1st January, 1884, or acquiring land *thereafter*, are or become occupancy-tenants, unless, indeed, *new tenants* come with an *express written agreement* that they are not to have such rights. In Sambalpur even this exception does not prevail, for the people are there so ignorant that they

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ing were enough. These provisions cover all cases of *past* intermission.

In *future* cessation will not affect a right.

would be got to sign such agreements without understanding them.

Sec. 42. Section 42 grants occupancy-rights (as usual) to ex-proprietors as regards their 'sír' land in the cases specified, but this does not apply to bhográ land in Sambalpur, as the definition clause specially excludes it.

§ 6. *Privileges of Occupancy-Tenants.*

If the reader refers back to § 2, page 489 ante, where the absolute tenants' privileges are enumerated, he can compare them with those of the occupancy-tenant not being 'absolute.' The latter are— Secs. 43-44.

(*a*) The holding is heritable, as if it were land, except that it does not pass to collaterals other than co-sharer collaterals. In Chándá, Nímár, and Sambalpur, however, it does pass to collaterals;

(*b*) any transfer, and also a sub-lease, is void as against the landlord, except—

(1) By consent of the landlord;

(2) the transfer is to a person who would be an heir.

The transfer by sale in execution of decree is prohibited;

(*c*) the rents are fixed at Settlement.

In Chándá, Nímár, and Sambalpur, rents cannot be altered, except at Settlement[1]. And as regards those tenants who Sec. 45 (3). acquire their holding after the Settlement, they pay (until a new Settlement) the rent agreed on, or rent at certain rates entered in the record-of-rights for the purpose of such cases, or in Sambalpur at the average rate paid for similar land in the village.

Other occupancy-tenants *can* be enhanced during currency of a Settlement, but only if paying money-rent, and on application to a Revenue officer—who is guided by Rules for enhancement issued under section 82. Moreover, if the *tenant* has improved the land, the enhancement can only be such as might have been due if the improvement had not been made.

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[1] Subject to the universally applicable but rare cases of sections 13, 14, and to the commutation section 16, (see § 1, p. 487, ante).

(*d*) An occupancy-tenant can be ejected, but only for arrears of rent or in execution of a decree of Civil Court passed on the ground of his having diverted his land to non-agricultural purposes, or done something which, by a custom (not inconsistent with the Act) renders him liable to ejectment.

§ 7. *Village-service Tenants.*

Village servants holding petty 'watans' or 'inám plots are not regarded as proprietors (in any grade), but as a special class of tenants. Chapter IV A of the Act (one of the chapters introduced in 1889) specially deals with this class. It was found that various provisions were entered in Settlement records regarding these servants, and it was convenient to include provisions regarding them in the tenant-law. The condition of the tenancy is the rendering village-service: on the death of such a tenant his right passes to his successor in accordance with the custom;—if it is a heritable office it will go to his heir, i.e. if election is the rule, it will go to the elected successor. Sec. 50 A.

The tenant may not transfer his land (except from year to year by way of sub-lease), and a tenant attempting to transfer makes himself liable to ejectment. The right is not saleable in execution of a decree against the holder. Sec. 50 B (2). A tenant unable to render service personally, may provide a competent substitute.

The tenant pays no rent (beyond his service), so that no provisions are needed; his ejectment is regulated so that it can only be by order of a Revenue officer, and on the sole grounds of (1) attempting to transfer the land, (2) ceasing to render service properly, and failing to provide an efficient substitute.

§ 8. *Sub-Tenant.*

Sec. 51. Sub-tenants hold only on contract from tenants, and it is worthy of remark that the tenant of a málik-maqbúza is also treated as a sub-tenant. All contracts are subject to the rule fixing the date of instalments under Section 7, and are subject to the universal Sections 14, 15 (alteration of rent consequent on increase of, or diminution of, area, or imposition or alteration of Government revenue). Sec. 54 A will also be borne in mind. The effect of it will be that practically *all* rents will be determined at Settlement—a most desirable conclusion. But ordinary tenants' rents will not remain for the whole term, but may be raised again after *seven* years.

§ 9. *Ordinary Tenants.*

Sec. 53. Chapter VI deals with 'ordinary tenants,' that is, all persons who are neither absolute occupancy-tenants, occupancy-tenants, village-service-tenants, or sub-tenants, nor are mere farmers, managers, or thekádárs of estates, but are Sec. 3 (2). 'tenants' within the definition. It should be added that one of the difficulties about *sír* land was that a proprietor Sec. 53 (2). would evade the rule about land being let to tenants (without reservation) not being *sír*, by employing a tenant, only *calling him 'partner,'* and entering into certain partnership shares with him. It is now provided that if in any locality special action is needed, the Chief Commissioner may apply the 2nd sub-section of Section 53, under which the 'partner' will be regarded as an ordinary tenant, and the Revenue officer will proceed to fix a proper rent, notwithstanding the partnership contract.

The general features of the *ordinary* tenant's position under the Act are as follows:—

(*a*) His position is *under contract*, i.e. he must pay such rent as he agrees to from time to time. *Enhancement* can be had, but it must be considered with the next head;

(*b*) he can be ejected, but only—

(1) On grounds that would eject an occupancy-tenant; Sec. 48.

(2) on a *decree for ejectment* passed (*a*) on his refusing to agree to his landlord's justifiable demand for enhancement; or (*b*) because the land is *sír*, and is wanted by the proprietor himself. Sec. 56.

The demand for *enhancement* and means of contesting it, are described in terms that should be referred to. There is a distinction, it will be observed, between holdings entirely on the home-farm; holdings under written contract fixing rent; and holdings not under any contract. It is in the *latter* case that a formal six months' notice of an intended enhancement has to be given. In the case of *sír* land, it is a matter of ordinary demand or suit to eject; and if there is a written contract fixing the rent, the matter settles itself. If the tenant ignores the notice or declines the enhancement and prefers to throw up his holding, the ejectment must be *by a decree on suit*, and is subject to compensation for improvements as well as to *paying seven times* the amount of the enhancement proposed, as compensation for disturbance. Even then certain mitigations to ejectment are contemplated. Secs. 56, 57. Secs. 58, 59.

When enhancement has been had, it cannot be again demanded for *seven* years. Sec. 60.

Resuming the list of ordinary tenancy rights and limitations, we find further that—

(*d*) The tenancy devolves on the death of the tenant, but not to a collateral, except he be a co-sharer in a joint tenancy;

(*e*) all transfers and sub-leases are void as against the landlord, except they have been made with the landlord's consent. The tenancy is not saleable in execution of a decree.

§ 10. *Acquisition of Occupancy-Right by special provision.*

Section 62 contains a peculiar provision. This (as usual) does not apply to the *sír* land, which is intended to be as much as possible at the proprietor's unfettered disposal; but in other land, an ordinary tenant may *tender a sum equal to two-and-a-half times the annual rent* of the holding and the costs of preparing the necessary documents, and may then *demand to be made an occupancy-tenant.*

The landlord may thereon agree, but may apply to have the rent fixed; if he neglect or refuse for one month, the tenant may deposit the tender in Court, and apply to the Revenue officer to confer the right. After inquiry made, if no reason *contra* appears, the tenant will become an occupancy-tenant.

§ 11. *Other general Rights.*

Secs. 72–79, et seq.

Among the general rights accorded to ordinary tenants, that provided in Section 73 ought here to be noticed. It is a distinct advantage to have the legally recognized right to plead *calamity* (beyond human control) in case a tenant has fallen into arrears of rent.

There are various other conditions regarding decrees for ejectment, decrees for arrears of rent, dates of ejecting, and so forth, which need not be here recapitulated as hardly affecting the nature of the tenure.

§ 12. *Résumé—Leading feature of the Act.*

It will be observed that, in all cases of occupancy-tenancy, the principle is that *the rent is fixed judicially* at time of Settlement. And practically it is so, even in cases of ordinary tenancy, because Section 15 of the Act gives power to a Revenue officer to alter rents, when the land-revenue is increased or diminished, which it would be at Settlement; and Section 54 A has still further extended the facility for getting rents fixed.

Mr. Fuller remarks that, though the rent of an ordinary tenant can be enhanced by a civil suit, still the tenant can refuse, and throw up his holding, and the landlord has then to pay a sum as compensation for disturbance. 'This has up to date almost entirely barred enhancement by civil suit; and it may be expected that málguzárs will, in future, have to rely a good deal on the action of the Settlement Officer at Settlement, for getting an enhancement of the rents of ordinary as well as occupancy-tenants.'

In short, the practical safeguard against any injustice to the raiyat by the creation of a right of property in the málguzár is this, that the tenure of all classes of tenants has been put on a somewhat exceptional or novel foundation; and is still further rendered a valuable possession by the provision of the Rent Act, which requires, or, at least allows, *all rents to be determined at Settlement-time along with the revenue*[1].

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[1] The reader will do well here to compare this with the remarks made on the partial settlement of rents effected in the North-Western Provinces, in Chap. II. Sec. V. p. 173, 4, ante.)

CHAPTER IV.

THE REVENUE OFFICERS—THEIR BUSINESS AND PROCEDURE.

SECTION I.—REVENUE OFFICERS.

§ 1. *Introductory.*

IN the CENTRAL PROVINCES we find the only distinctive mark which still survives, of what used to be called the 'Non-Regulation' system, namely, that the District Officer is called 'Deputy Commissioner,' instead of 'Magistrate and Collector,' and that he (nominally, at any rate) combines the jurisdiction of a Civil Court with those of Magistrate and Revenue Officer. The Commissioner also is the Sessions Judge and Court of Civil Appeal, as well as Revenue Commissioner. As regards the law in force, the province was not, either wholly or in part, attached to the Bengal Presidency, and therefore the Code of Bengal Regulations never applied to it *proprio vigore*. In other respects, the law is just the same as in the rest of India[1].

There are four Commissionerships—Jabalpur, Narbada, Nágpur, and Chhattísgarh—and eighteen districts. The three Commissionerships first named, have five districts each, and the last, three. The district, on an average, extends over 4691 square miles, and has an average population (census of 1881) of 546,599, and an average revenue of R. 7,20,000. The eighteen districts are subdivided into forty-nine subdivisions or 'tahsíls,' each under a 'Tahsíldár,' who may be assisted by a náib or deputy[1]. The remarks made elsewhere about the extensive duties and multifarious demands on the attention of the District Officer (Vol. I. Book II. p. 670, and Vol. II. Book III. p 269) apply equally here, and I need not repeat them.

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[1] Act XX of 1875 defines the local force of certain laws.

It should be remembered that the non-feudatory Zamíndárs, though *originally* their estates were not settled in the same way as the kh̲álsa districts, are subject to the Revenue and Tenant Acts, and to the ordinary jurisdiction of the Deputy Commissioner and Commissioner, and that the chiefs or proprietors are amenable to the Courts in case of any infringement of the rights of their tenantry.

§ 2. *Grades of Officers.*

The Chief Commissioner is (subject to the control of the Governor-General in Council) the chief controlling revenue authority[2] of the province; as the Commissioner is within his division, and the Deputy Commissioner within his district—each being legally subject to the control of the one above. The law acknowledges 'Assistant Commissioners' [these (by definition) include the 'Extra Assistant Commissioner' of the service lists]; they are subordinate to the Deputy Commissioner. It also recognizes Tahsíldárs who are the 'chief executive revenue authorities' of their tahsíl, and Náib-Tahsíldárs, who are their subordinates. The power of appointment, suspension, and removal of all grades is vested in the Chief Commissioner, subject to the control of the Governor-General in the case of the grades above that of Tahsíldár. The Náib-Tahsíldár is appointed, removed, or suspended by the authority named in *rules* made by the Chief Commissioner. An 'Additional' Commissioner, or Deputy Commissioner, or Tahsíldár, may be appointed and vested with powers of the grade.

L.-R. Act XVIII of 1881, secs. 5, 6.

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[1] These figures are from the *Administration Report*, 1882-83.

[2] The Director of Land-Records and Agriculture (who is also Settlement Commissioner) is placed in more direct connection with the chief Revenue authority by being also officially a Junior Secretary of the Administration.

§ 3. *Powers.*

For executive purposes (though not in the Act) Assistant Commissioners are divided into Class I and Class II. This merely refers to the fact that the officer has or has not qualified by passing an examination, by the higher standard, in revenue-law. Ordinarily, those of Class I are invested with many of the powers of the Deputy Commissioner; the others are mostly employed in reporting, and preparing cases for orders.

Under secs 116, 128, 132, 134-5.

The Tahsíldár has but few powers under the Act (viz. to certify balances, to arrest defaulters, and to receive notice of changes in proprietary possession), and may be invested with power to fine for injury to boundary marks. As the *Circular* says, 'they are most literally, in the words of Section 6, merely executive revenue officers[1].' Their chief duty is to investigate and report matters for orders, as well as to carry out orders, collect the revenue, and keep the tahsíl accounts. There are náib or deputy Tahsíldárs, to whom may be delegated the powers of a Tahsíldár.

An assistant may be vested with all or any of the powers of a Deputy Commissioner in the district to which he is attached. The Act goes on to details about the retention of powers in case of transfer to another district; powers to delegate authority in certain cases; and the power of distributing business and withdrawing it from one office to another. The powers to be exercised by the Deputy Commissioner, *ex-officio*, are specified; but other officers may be invested with these powers; so that, under the Act, every officer has powers (*a*) which belong to him as such, (*b*) with which he may be invested[2]. Revenue officers have power, in executing any duty under the Act, to enter on land, demarcate boundaries, and do 'all other acts necessary to the business on which they are engaged.'

Secs. 10-11.

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Among a simple people it is desirable, and the Act provides that, in business applications and appearances, the parties should come personally: appearance by personal or legal agent (pleader, &c.) requires *permission.* If a pleader is allowed, it does not excuse personal attendance when such is required. Fees of a legal practitioner are not allowed as costs, unless the Revenue officer gives written reasons for allowing them.

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An appeal lies from the subordinate grades to the Deputy Commissioner, and from him to the Commissioner, and from him to the Chief Commissioner; but in no case is a third appeal allowed. General powers of calling for, and, if necessary, *revising*, any order, are vested in the superior authorities, apart from appeal.

§ 6. *Village Officers.*

The Act, it will be observed, does not treat any of the village or pargana officials as 'Revenue officers,' because they have no *powers* which require to be regulated by law. They are, however, mentioned in the Act, not only in connection with their right to remuneration and their liability to render service in the village, but with reference to their public duty. Hence Chapter XI is specially devoted to the subject of 'village officers and patwárís.'

It provides that the Chief Commissioner may make rules for the appointment, remuneration, suspension, and removal of 'lambardárs,' 'sub-lambardárs,' and 'muqaddams,' and lays down certain duties of each class: it does the same for patwárís. I do not know why the kanúngo (as supervisor of patwárís) is not mentioned in the Act; for the office exists. In this, as in other provinces, his supervision is much relied on for keeping up what I may call the new system of corrected village records and statistics.

§ 7. *The Headmen.*

In other provinces where the 'village' system prevails, we find that the headman is called 'lambardár,' and there is often more than one. For instance, in subdivided villages, there will be one or more to each 'pattí.' But the circumstances of proprietary-right, in the Central Provinces, have made a somewhat more complicated arrangement necessary. The 'lambardár,' legally speaking, is either the sole proprietor[1] or one of a body of proprietors *in his revenue-paying aspect*; as it is the 'lambardár' who engages for the revenue and is answerable for its collection. In villages where there are two grades of proprietary-right —superior and inferior—it may be desirable to have one or more 'lambardárs' for the inferior body; and they are then called '*sub*-lambardárs.' The Act also separates the revenue-paying and the executive functions of a headman; for, though the Section 137 provides that the lambardár is also ordinarily to be muqaddam, yet, in some cases, the proprietor or co-sharer responsible as lambardár and muqaddam, may be non-resident, or only occasionally resident, or may be illiterate; or a female may be the proprietor. In that case, the functions must be provided for, and a co-sharer (if possible) must be nominated to act as agent and to perform the duties of muqaddam[2]. If all the co-sharers are non-resident (or not competent), some other person may be appointed agent.

The agent has all the powers and is responsible for the duties, of *muqaddam*; but the muqaddam remains also liable, and any fine imposed on the agent for breach of the provisions of the law, may be recovered by the Deputy Commissioner from the principal.

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[1] The 'Málguzár,' or one of the family, is the 'lambardár.' The term 'Málguzár' does not, under our revenue system, imply any function or duty; 'it is simply the surviving name given to a person who now is a proprietor or co-sharer in the property.'

[2] And, if so, he has no extra remuneration, beyond his lambardári allowance.

§ 8. *Duties of Lambardár.*

Sections 138 and 139 mention the revenue duties of the lambardár and sub-lambardár, which are, to collect and pay into the treasury, the revenue, or portion of the revenue, payable through him; and similarly to collect and pay the remuneration of the muqaddam, patwárí, and kotwár or village watchman, or other village expenses; and to assist the muqaddam in obtaining the particulars which he is bound to report or to enter in the village papers. There is at least one lambardár for every mahál. The 'Sadr málguzár' in the northern districts, and the managing gáoñtiyá in Sambalpur, are lambardárs; and if there is only one 'málguzár' (proprietor) or one gáoñtiyá, he is the 'lambardár' *ipso facto.*

The lambardár is the only person entitled by law to collect the revenue directly, and he is liable for the payment Sec. 138. in the first instance. If the co-sharers or others under him make default, he can recover from them, either by regular suit or by a summary process which the Deputy Commis- L.-R. Act sioner is empowered to issue at his request. In compensa- sec. 116. tion for the risk and trouble, the lambardár is entitled, as such, to an allowance not exceeding 5 per cent. on the land-revenue, and in Sambalpur to one-tenth of the bhográ-land, or one-tenth of the profits of bhográ-land, to be contributed by the holders in proportion to their shares.

Along with the revenue, lambardárs may collect their own percentage-remuneration, and that of the muqaddam[1].

§ 9. *Duties of Muqaddam.*

The muqaddam's duty is to control and superintend the Sec. 141. village patwárí and watchmen, and to see to their enjoying their proper remuneration in cash or land, as the case may be; to report facts about the state of the village; to preserve paths and roadways and survey marks; to attend to sanitation; to report violations of rules for preserving unreserved forests and trees on the village lands and secur-

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[1] Subject to the proviso to Sec. 137, and see Circ., section I. No. 9, § VII.

ing the enjoyment of rights to forest-produce; to collect or aid in the collection of, all Government dues, and to report births and deaths. The Chief Commissioner is empowered
Sec. 137. to make rules regarding the appointment, remuneration,
Sec. 141. suspension, and removal of lambardárs and of muqaddams, as well as regarding additional duties of muqaddams, and other matters[1]. The duties imposed by law on 'landholders'
Sec. 142. are to be understood as imposed on 'muqaddams.'

§ 10. *Headman of Raiyatwárí Villages.*

In raiyatwárí villages, the headman is not called lambardár, as he does not represent anyone in a revenue-engagement. He is 'pátel' and also muqaddam. His duties are described
Sec. 143 A. in Section 143 A.

For further details, the rules, which are simple and intelligible, may be consulted.

§ 11. *The Patwárí*[2].

The patwárí is so essential a feature of the system of revenue- and Settlement-administration, that the subject of the history and organization of the office should be given in some detail. The importance of the maintenance of the village maps, records, and statistics, has been so often explained, that I need not say anything further in this place.

It is impossible to have correct maps and reliable records without a trained staff of local registrars in the villages—namely, the patwárís—supervised carefully. It is hardly too much to say—'Organize your patwárís, and your records will organize themselves.' For what follows, I am largely indebted to a note kindly furnished by Mr. J. B. Fuller.

§ 12. *Former history of Patwárís.*

Under Native rule there seem to have been patwárís throughout the Province except in Chhattísgarh and Sambal-

pur, where they were apparently unknown. In the Nágpur country they were known by the title of Pándyá, or, if holding under a grant of hereditary rights, Kulkarní. But it would be a mistake to imagine that at this time there was a patwárí for every village. It was only the bigger villages which owned them; and there was no further approach to a circle (or 'halkabandí') system of charges, than might arise from the fact that the patwárí of one village might serve two or three others in the neighbourhood,—when these belonged to the same proprietor or were under the same management.

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[1] Rules under section 137, are in the *Revenue Circular*, section I, Serial No. 9, and for muqaddams in Serial No. 10.

[2] See a printed volume of *Correspondence connected with the reorganization of the patwárí staff* (1883–86) Nagpur.

Office in India has a tendency to become hereditary, and undoubtedly each patwárí looked to his son as his successor. But claims of this kind were not, as a rule, so strong as to override the wish of the pátel if he from any reason proposed to appoint an outsider. We are expressly informed by Sir R. Jenkins that the Pándyás, which were found in the Nágpur country at the time of its escheat in 1854, were non-hereditary; and it may be safely said that the hereditary claims which are now put forward by a large proportion of the patwárís have their origin in the consideration, or the apathy, of British officers. An exception must, however, be made in the case of those tracts which were formerly under Muhammadan rule. The policy, then, seems to have been to strengthen the position of village officers as much as possible, and they in many cases acquired (or retained) a clear hereditary right in their offices as well as the emoluments already described as the 'watan.'

The patwárís of Nímár fall under this category, as do also those in a strip of country to the west of the Wardhá district —the 'do'amlí-mulk'—which formerly was part of Hyderabad territory. The 'watandár' patwárís are here known as *kulkarnis.*

§ 13. *First Efforts at Organization.*

It was in the Ságar-Narbada territory that the first attempt was made to utilize the patwárís in the preparation of annual returns of rents for the use of the Revenue Office, and to organize them into a staff. The villages were grouped into circles and a patwárí placed in charge of each circle; existing charges being interfered with as little as possible, and the patwárís being left in great part to make the grouping (halkabandí) themselves. It was not held essential that the villages present definition of sír land. Before the Act was passed, a tenant-right could not be acquired in sír land let to a tenant. Under the Act, if a landlord lets his sír land to a tenant without an express reservation of the sír rights, and if the tenant holds for six consecutive years, the sír rights are lost. Many of the landlords through ignorance of the law have omitted to make this reservation, and have thus lost their rights in the land which they had for years regarded as their own peculiar home-farm. This state of the law has given great dissatisfaction to the landlords. . . .

. . . .

'The proposal to amend the definition has not been adopted without the most anxious consideration . . . but it is considered that without the amendment, the contest between landlord and tenant, which has already commenced, cannot be put a stop to, and that the respective rights of the landlord and the tenant cannot be preserved.'

Sec. 3, cl. 11, and Exp. I–III. The amended definition accordingly leaves the landlords to enjoy as their home-farm or sír all the land which they have been cultivating for twelve years, on the 29th October, 1889[1], and all waste land which they have broken up and cultivated for six years (including such fallow periods as custom recognizes), provided that the entire area of *sír* does not come up to more than 25 per cent. of the entire cultivation of the estate. There is now no rule that 'sír' rights may always be lost by letting the land out of the hands of the proprietor for six years.

But land that had been unoccupied for six years consecutively on the 29th October, 1889, and counting back to the former Settlement, to the expiry of twelve years, or of six years, as the case may be, ceases to be *sír* land, whether once occupied *before* that or not[2]. Land is not understood to be 'unoccupied' by a landlord if he has let it on the express understanding that he is not giving it out of his hands. It should be noted that the loss of land once sír, by leaving it unoccupied, does not occur in bhográ land (Sambalpur). The rights of the gáoṅtiyás are already so limited there, that there was no object in adding this further restriction.

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[1] The date of the commencement of the Central Provinces Land-Revenue Amendment Act, 1889.

[2] E.g. a proprietor held land *entered* as sír at a Settlement (let us suppose) concluded on the 31st December, 1881; he ceased to cultivate it as sír on 1st July, 1883, and was out of possession on 29th October, 1889; the land would cease to be sír. Or, suppose a man had just completed the twelve years occupation—necessary to make the land sír—on the 31st December, 1884, and then stopped cultivating. On the 29th October, 1889, six years cessation would not be complete, so the land still remains sír. The same would hold good if the land had been *waste* and six years hold-

This is what is meant by Explanation II to the definition:—

> 'The amendment, therefore, will, as far as possible, secure rights already acquired over *raiyatí* land, while limiting their acquisition for the future. It is not intended, however, to restrict unduly the acquisition of sír land by a proprietor. It is, therefore, provided by section 69 (as amended) that the Settlement Officer shall record as *sír* all land which he finds has been cultivated by the proprietor for twelve consecutive years, subject to this proviso that *raiyatí* land which has been so cultivated shall not be recorded as *sír* if the total area of sír land in the mahál would thereby amount *to more than a quarter of the cultivated area of the mahál.* In effect, therefore, the landlord will have ample power to increase his sír land by breaking up waste land and cultivating raiyatí land, while he will not suffer the loss of his sír rights through ignorance of the law or neglect to secure them by an express reservation. The tenant, on the other hand, will be protected against the loss of the raiyatí land by an excessive conversion of such land into sír. It is hoped that these amendments will effect a substantial improvement in the law.'

L.-Rev. Act, sec. 69

§ 5. *Special Cases of Occupancy-Tenure.*

In Chándá, Nimár, and Sambalpur, *all* tenants (not on *sír*, or as it is called in Sambalpur bhográ, land) holding on the 1st January, 1884, or acquiring land *thereafter*, are or become occupancy-tenants, unless, indeed, *new tenants* come with an *express written agreement* that they are not to have such rights. In Sambalpur even this exception does not prevail, for the people are there so ignorant that they

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ing were enough. These provisions cover all cases of *past* intermission. In *future* cessation will not affect a right.

would be got to sign such agreements without understanding them.

Sec. 42. Section 42 grants occupancy-rights (as usual) to ex-proprietors as regards their 'sír' land in the cases specified, but this does not apply to bhográ land in Sambalpur, as the definition clause specially excludes it.

§ 6. *Privileges of Occupancy-Tenants.*

If the reader refers back to § 2, page 489 ante, where the absolute tenants' privileges are enumerated, he can compare them with those of the occupancy-tenant not being 'absolute.' The latter are— Secs. 43-44.

(*a*) The holding is heritable, as if it were land, except that it does not pass to collaterals other than co-sharer collaterals. In Chándá, Nímár, and Sambalpur, however, it does pass to collaterals;

(*b*) any transfer, and also a sub-lease, is void as against the landlord, except—

(1) By consent of the landlord;

(2) the transfer is to a person who would be an heir.

The transfer by sale in execution of decree is prohibited;

(*c*) the rents are fixed at Settlement.

In Chándá, Nímár, and Sambalpur, rents cannot be altered, except at Settlement[1]. And as regards those tenants who Sec. 45 (3). acquire their holding after the Settlement, they pay (until a new Settlement) the rent agreed on, or rent at certain rates entered in the record-of-rights for the purpose of such cases, or in Sambalpur at the average rate paid for similar land in the village.

Other occupancy-tenants *can* be enhanced during currency of a Settlement, but only if paying money-rent, and on application to a Revenue officer—who is guided by Rules for enhancement issued under section 82. Moreover, if the *tenant* has improved the land, the enhancement can only be such as might have been due if the improvement had not been made.

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[1] Subject to the universally applicable but rare cases of sections 13, 14, and to the commutation section 16, (see § 1, p. 487, ante).

(*d*) An occupancy-tenant can be ejected, but only for arrears of rent or in execution of a decree of Civil Court passed on the ground of his having diverted his land to non-agricultural purposes, or done something which, by a custom (not inconsistent with the Act) renders him liable to ejectment.

§ 7. *Village-service Tenants.*

Village servants holding petty 'watans' or 'inám plots are not regarded as proprietors (in any grade), but as a special class of tenants. Chapter IV A of the Act (one of the chapters introduced in 1889) specially deals with this class. It was found that various provisions were entered in Settlement records regarding these servants, and it was convenient to include provisions regarding them in the tenant-law. The condition of the tenancy is the rendering village-service: on the death of such a tenant his right passes to his successor in accordance with the custom;—if it is a heritable office it will go to his heir, i.e. if election is the rule, it will go to the elected successor. Sec. 50 A.

The tenant may not transfer his land (except from year to year by way of sub-lease), and a tenant attempting to transfer makes himself liable to ejectment. The right is not saleable in execution of a decree against the holder. A tenant unable to render service personally, may provide a competent substitute. Sec. 50 B (2).

The tenant pays no rent (beyond his service), so that no provisions are needed; his ejectment is regulated so that it can only be by order of a Revenue officer, and on the sole grounds of (1) attempting to transfer the land, (2) ceasing to render service properly, and failing to provide an efficient substitute.

§ 8. *Sub-Tenant.*

Sec. 51. Sub-tenants hold only on contract from tenants, and it is worthy of remark that the tenant of a málik-maqbúza is also treated as a sub-tenant. All contracts are subject to the rule fixing the date of instalments under Section 7, and are subject to the universal Sections 14, 15 (alteration of rent consequent on increase of, or diminution of, area, or imposition or alteration of Government revenue). Sec. 54 A will also be borne in mind. The effect of it will be that practically *all* rents will be determined at Settlement—a most desirable conclusion. But ordinary tenants' rents will not remain for the whole term, but may be raised again after *seven* years.

§ 9. *Ordinary Tenants.*

Sec. 53. Chapter VI deals with 'ordinary tenants,' that is, all persons who are neither absolute occupancy-tenants, occupancy-tenants, village-service-tenants, or sub-tenants, nor are mere farmers, managers, or thekádárs of estates, but are
Sec. 3 (2). 'tenants' within the definition. It should be added that one of the difficulties about *sír* land was that a proprietor
Sec. 53 (2). would evade the rule about land being let to tenants (without reservation) not being *sír*, by employing a tenant, only *calling him 'partner,'* and entering into certain partnership shares with him. It is now provided that if in any locality special action is needed, the Chief Commissioner may apply the 2nd sub-section of Section 53, under which the 'partner' will be regarded as an ordinary tenant, and the Revenue officer will proceed to fix a proper rent, notwithstanding the partnership contract.

The general features of the *ordinary* tenant's position under the Act are as follows:—

(*a*) His position is *under contract*, i.e. he must pay such rent as he agrees to from time to time. *Enhancement* can be had, but it must be considered with the next head;

(*b*) he can be ejected, but only—

(1) On grounds that would eject an occupancy-tenant; Sec. 48.

(2) on a *decree for ejectment* passed (*a*) on his refusing to agree to his landlord's justifiable demand for enhancement; or (*b*) because the land is *sír*, and is wanted by the proprietor himself. Sec. 56.

The demand for *enhancement* and means of contesting it, are described in terms that should be referred to. There is a distinction, it will be observed, between holdings entirely on the home-farm; holdings under written contract fixing rent; and holdings not under any contract. It is in the *latter* case that a formal six months' notice of an intended enhancement has to be given. In the case of *sír* land, it is a matter of ordinary demand or suit to eject; and if there is a written contract fixing the rent, the matter settles itself. If the tenant ignores the notice or declines the enhancement and prefers to throw up his holding, the ejectment must be *by a decree on suit*, and is subject to compensation for improvements as well as to *paying seven times* the amount of the enhancement proposed, as compensation for disturbance. Even then certain mitigations to ejectment are contemplated. Secs. 56, 57. Secs. 58, 59.

When enhancement has been had, it cannot be again demanded for *seven* years. Sec. 60.

Resuming the list of ordinary tenancy rights and limitations, we find further that—

(*d*) The tenancy devolves on the death of the tenant, but not to a collateral, except he be a co-sharer in a joint tenancy;

(*e*) all transfers and sub-leases are void as against the landlord, except they have been made with the landlord's consent. The tenancy is not saleable in execution of a decree.

§ 10. *Acquisition of Occupancy-Right by special provision.*

Section 62 contains a peculiar provision. This (as usual) does not apply to the *sír* land, which is intended to be as much as possible at the proprietor's unfettered disposal; but in other land, an ordinary tenant may *tender a sum equal to two-and-a-half times the annual rent* of the holding and the costs of preparing the necessary documents, and may then *demand to be made an occupancy-tenant.*

The landlord may thereon agree, but may apply to have the rent fixed; if he neglect or refuse for one month, the tenant may deposit the tender in Court, and apply to the Revenue officer to confer the right. After inquiry made, if no reason *contra* appears, the tenant will become an occupancy-tenant.

§ 11. *Other general Rights.*

Secs. 72-79, et seq.

Among the general rights accorded to ordinary tenants, that provided in Section 73 ought here to be noticed. It is a distinct advantage to have the legally recognized right to plead *calamity* (beyond human control) in case a tenant has fallen into arrears of rent.

There are various other conditions regarding decrees for ejectment, decrees for arrears of rent, dates of ejecting, and so forth, which need not be here recapitulated as hardly affecting the nature of the tenure.

§ 12. *Résumé—Leading feature of the Act.*

It will be observed that, in all cases of occupancy-tenancy, the principle is that *the rent is fixed judicially* at time of Settlement. And practically it is so, even in cases of ordinary tenancy, because Section 15 of the Act gives power to a Revenue officer to alter rents, when the land-revenue is increased or diminished, which it would be at Settlement; and Section 54 A has still further extended the facility for getting rents fixed.

Mr. Fuller remarks that, though the rent of an ordinary tenant can be enhanced by a civil suit, still the tenant can refuse, and throw up his holding, and the landlord has then to pay a sum as compensation for disturbance. 'This has up to date almost entirely barred enhancement by civil suit; and it may be expected that málguzárs will, in future, have to rely a good deal on the action of the Settlement Officer at Settlement, for getting an enhancement of the rents of ordinary as well as occupancy-tenants.'

In short, the practical safeguard against any injustice to the raiyat by the creation of a right of property in the málguzár is this, that the tenure of all classes of tenants has been put on a somewhat exceptional or novel foundation; and is still further rendered a valuable possession by the provision of the Rent Act, which requires, or, at least allows, *all rents to be determined at Settlement-time along with the revenue*[1].

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[1] The reader will do well here to compare this with the remarks made on the partial settlement of rents effected in the North-Western Provinces, in Chap. II. Sec. V. p. 173, 4, ante.)

CHAPTER IV.

THE REVENUE OFFICERS—THEIR BUSINESS AND PROCEDURE.

SECTION I.—REVENUE OFFICERS.

§ 1. *Introductory.*

IN the CENTRAL PROVINCES we find the only distinctive mark which still survives, of what used to be called the 'Non-Regulation' system, namely, that the District Officer is called 'Deputy Commissioner,' instead of 'Magistrate and Collector,' and that he (nominally, at any rate) combines the jurisdiction of a Civil Court with those of Magistrate and Revenue Officer. The Commissioner also is the Sessions Judge and Court of Civil Appeal, as well as Revenue Commissioner. As regards the law in force, the province was not, either wholly or in part, attached to the Bengal Presidency, and therefore the Code of Bengal Regulations never applied to it *proprio vigore*. In other respects, the law is just the same as in the rest of India[1].

There are four Commissionerships—Jabalpur, Narbada, Nágpur, and Chhattísgarh—and eighteen districts. The three Commissionerships first named, have five districts each, and the last, three. The district, on an average, extends over 4691 square miles, and has an average population (census of 1881) of 546,599, and an average revenue of R. 7,20,000. The eighteen districts are subdivided into forty-nine subdivisions or 'tahsíls,' each under a 'Tahsíldár,' who may be assisted by a náib or deputy[1]. The remarks made elsewhere about the extensive duties and multifarious demands on the attention of the District Officer (Vol. I. Book II. p. 670, and Vol. II. Book III. p 269) apply equally here, and I need not repeat them.

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[1] Act XX of 1875 defines the local force of certain laws.

It should be remembered that the non-feudatory Zamíndárs, though *originally* their estates were not settled in the same way as the k͟hálsa districts, are subject to the Revenue and Tenant Acts, and to the ordinary jurisdiction of the Deputy Commissioner and Commissioner, and that the chiefs or proprietors are amenable to the Courts in case of any infringement of the rights of their tenantry.

§ 2. *Grades of Officers.*

The Chief Commissioner is (subject to the control of the Governor-General in Council) the chief controlling revenue authority[2] of the province; as the Commissioner is within his division, and the Deputy Commissioner within his district—each being legally subject to the control of the one above. The law acknowledges 'Assistant Commissioners' [these (by definition) include the 'Extra Assistant Commissioner' of the service lists]; they are subordinate to the Deputy Commissioner. It also recognizes Tahsíldárs who are the 'chief executive revenue authorities' of their tahsíl, and Náib-Tahsíldárs, who are their subordinates. The power of appointment, suspension, and removal of all grades is vested in the Chief Commissioner, subject to the control of the Governor-General in the case of the grades above that of Tahsíldár. The Náib-Tahsíldár is appointed, removed, or suspended by the authority named in *rules* made by the Chief Commissioner. An 'Additional' Commissioner, or Deputy Commissioner, or Tahsíldár, may be appointed and vested with powers of the grade.

L.-R. Act XVIII of 1881, secs. 5, 6.

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[1] These figures are from the *Administration Report*, 1882-83.

[2] The Director of Land-Records and Agriculture (who is also Settlement Commissioner) is placed in more direct connection with the chief Revenue authority by being also officially a Junior Secretary of the Administration.

§ 3. *Powers.*

For executive purposes (though not in the Act) Assistant Commissioners are divided into Class I and Class II. This merely refers to the fact that the officer has or has not qualified by passing an examination, by the higher standard, in revenue-law. Ordinarily, those of Class I are invested with many of the powers of the Deputy Commissioner; the others are mostly employed in reporting, and preparing cases for orders.

Under secs 116, 128, 132, 134-5.

The Tahsíldár has but few powers under the Act (viz. to certify balances, to arrest defaulters, and to receive notice of changes in proprietary possession), and may be invested with power to fine for injury to boundary marks. As the *Circular* says, 'they are most literally, in the words of Section 6, merely executive revenue officers[1].' Their chief duty is to investigate and report matters for orders, as well as to carry out orders, collect the revenue, and keep the tahsíl accounts. There are náib or deputy Tahsíldárs, to whom may be delegated the powers of a Tahsíldár.

Secs. 10-11.

An assistant may be vested with all or any of the powers of a Deputy Commissioner in the district to which he is attached. The Act goes on to details about the retention of powers in case of transfer to another district; powers to delegate authority in certain cases; and the power of distributing business and withdrawing it from one office to another. The powers to be exercised by the Deputy Commissioner, *ex-officio*, are specified; but other officers may be invested with these powers; so that, under the Act, every officer has powers (*a*) which belong to him as such, (*b*) with which he may be invested[2]. Revenue officers have power, in executing any duty under the Act, to enter on land, demarcate boundaries, and do 'all other acts necessary to the business on which they are engaged.'

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[1] The Tahsíldár is said, in the words of the Act, to be 'subject to the control' of the Deputy Commissioner, but not to be 'subordinate'; hence it is taken that the Deputy Commissioner cannot delegate powers to him under section 15.

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It provides that the Chief Commissioner may make rules for the appointment, remuneration, suspension, and removal of 'lambardárs,' 'sub-lambardárs,' and 'muqaddams,' and lays down certain duties of each class: it does the same for patwárís. I do not know why the kanúngo (as supervisor of patwárís) is not mentioned in the Act; for the office exists. In this, as in other provinces, his supervision is much relied on for keeping up what I may call the new system of corrected village records and statistics.

§ 7. *The Headmen.*

In other provinces where the 'village' system prevails, we find that the headman is called 'lambardár,' and there is often more than one. For instance, in subdivided villages, there will be one or more to each 'pattí.' But the circumstances of proprietary-right, in the Central Provinces, have made a somewhat more complicated arrangement necessary. The 'lambardár,' legally speaking, is either the sole proprietor[1] or one of a body of proprietors *in his revenue-paying aspect*; as it is the 'lambardár' who engages for the revenue and is answerable for its collection. In villages where there are two grades of proprietary-right —superior and inferior—it may be desirable to have one or more 'lambardárs' for the inferior body; and they are then called '*sub*-lambardárs.' The Act also separates the revenue-paying and the executive functions of a headman; for, though the Section 137 provides that the lambardár is also ordinarily to be muqaddam, yet, in some cases, the proprietor or co-sharer responsible as lambardár and muqaddam, may be non-resident, or only occasionally resident, or may be illiterate; or a female may be the proprietor. In that case, the functions must be provided for, and a co-sharer (if possible) must be nominated to act as agent and to perform the duties of muqaddam[2]. If all the co-sharers are non-resident (or not competent), some other person may be appointed agent.

The agent has all the powers and is responsible for the duties, of *muqaddam*; but the muqaddam remains also liable, and any fine imposed on the agent for breach of the provisions of the law, may be recovered by the Deputy Commissioner from the principal.

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[1] The 'Málguzár,' or one of the family, is the 'lambardár.' The term 'Málguzár' does not, under our revenue system, imply any function or duty; 'it is simply the surviving name given to a person who now is a proprietor or co-sharer in the property.'

[2] And, if so, he has no extra remuneration, beyond his lambardári allowance.

§ 8. *Duties of Lambardár.*

Sections 138 and 139 mention the revenue duties of the lambardár and sub-lambardár, which are, to collect and pay into the treasury, the revenue, or portion of the revenue, payable through him; and similarly to collect and pay the remuneration of the muqaddam, patwárí, and kotwár or village watchman, or other village expenses; and to assist the muqaddam in obtaining the particulars which he is bound to report or to enter in the village papers. There is at least one lambardár for every mahál. The 'Sadr málguzár' in the northern districts, and the managing gáoṅtiyá in Sambalpur, are lambardárs; and if there is only one 'málguzár' (proprietor) or one gáoṅtiyá, he is the 'lambardár' *ipso facto*.

The lambardár is the only person entitled by law to collect the revenue directly, and he is liable for the payment Sec. 138. in the first instance. If the co-sharers or others under him make default, he can recover from them, either by regular suit or by a summary process which the Deputy Commissioner is empowered to issue at his request. L.-R. Act sec. 116. In compensation for the risk and trouble, the lambardár is entitled, as such, to an allowance not exceeding 5 per cent. on the land-revenue, and in Sambalpur to one-tenth of the bhográ-land, or one-tenth of the profits of bhográ-land, to be contributed by the holders in proportion to their shares.

Along with the revenue, lambardárs may collect their own percentage-remuneration, and that of the muqaddam[1].

§ 9. *Duties of Muqaddam.*

The muqaddam's duty is to control and superintend the Sec. 141. village patwárí and watchmen, and to see to their enjoying their proper remuneration in cash or land, as the case may be; to report facts about the state of the village; to preserve paths and roadways and survey marks; to attend to sanitation; to report violations of rules for preserving unreserved forests and trees on the village lands and secur-

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[1] Subject to the proviso to Sec. 137, and see *Circ.*, section I. No. 9, § VII.

ing the enjoyment of rights to forest-produce; to collect or
aid in the collection of, all Government dues, and to report
births and deaths. The Chief Commissioner is empowered
Sec. 137. to make rules regarding the appointment, remuneration,
Sec. 141. suspension, and removal of lambardárs and of muqaddams,
as well as regarding additional duties of muqaddams, and
other matters[1]. The duties imposed by law on 'landholders'
Sec. 142. are to be understood as imposed on 'muqaddams.'

§ 10. *Headman of Raiyatwárí Villages.*

In raiyatwárí villages, the headman is not called lambardár, as he does not represent anyone in a revenue-engagement. He is 'pátel' and also muqaddam. His duties are described
Sec. 143 A. in Section 143 A.

For further details, the rules, which are simple and intelligible, may be consulted.

§ 11. *The Patwárí*[2].

The patwárí is so essential a feature of the system of revenue- and Settlement-administration, that the subject of the history and organization of the office should be given in some detail. The importance of the maintenance of the village maps, records, and statistics, has been so often explained, that I need not say anything further in this place.

It is impossible to have correct maps and reliable records without a trained staff of local registrars in the villages—namely, the patwárís—supervised carefully. It is hardly too much to say—'Organize your patwárís, and your records will organize themselves.' For what follows, I am largely indebted to a note kindly furnished by Mr. J. B. Fuller.

§ 12. *Former history of Patwárís.*

Under Native rule there seem to have been patwárís throughout the Province except in Chhattísgarh and Sambal-

pur, where they were apparently unknown. In the Nágpur country they were known by the title of Pándyá, or, if holding under a grant of hereditary rights, Kulkarní. But it would be a mistake to imagine that at this time there was a patwárí for every village. It was only the bigger villages which owned them; and there was no further approach to a circle (or 'halkabandí') system of charges, than might arise from the fact that the patwárí of one village might serve two or three others in the neighbourhood,—when these belonged to the same proprietor or were under the same management.

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[1] Rules under section 137, are in the *Revenue Circular*, section I, Serial No. 9, and for muqaddams in Serial No. 10.

[2] See a printed volume of *Correspondence connected with the reorganization of the patwárí staff* (1883–86) *Nagpur.*

Office in India has a tendency to become hereditary, and undoubtedly each patwárí looked to his son as his successor. But claims of this kind were not, as a rule, so strong as to override the wish of the pátel if he from any reason proposed to appoint an outsider. We are expressly informed by Sir R. Jenkins that the Pándyás, which were found in the Nágpur country at the time of its escheat in 1854, were non-hereditary; and it may be safely said that the hereditary claims which are now put forward by a large proportion of the patwárís have their origin in the consideration, or the apathy, of British officers. An exception must, however, be made in the case of those tracts which were formerly under Muhammadan rule. The policy, then, seems to have been to strengthen the position of village officers as much as possible, and they in many cases acquired (or retained) a clear hereditary right in their offices as well as the emoluments already described as the 'watan.'

The patwárís of Nímár fall under this category, as do also those in a strip of country to the west of the Wardhá district—the 'do'amlí-mulk'—which formerly was part of Hyderabad territory. The 'watandár' patwárís are here known as *kulkarnis.*

§ 13. *First Efforts at Organization.*

It was in the Ságar-Narbada territory that the first attempt was made to utilize the patwárís in the preparation of annual returns of rents for the use of the Revenue Office, and to organize them into a staff. The villages were grouped into circles and a patwárí placed in charge of each circle; existing charges being interfered with as little as possible, and the patwárís being left in great part to make the grouping (halkabandí) themselves. It was not held essential that the villages ing the enjoyment of rights to forest-produce; to collect or aid in the collection of, all Government dues, and to report births and deaths. The Chief Commissioner is empowered Sec. 137. to make rules regarding the appointment, remuneration, Sec. 141. suspension, and removal of lambardárs and of muqaddams, as well as regarding additional duties of muqaddams, and other matters[1]. The duties imposed by law on 'landholders' Sec. 142. are to be understood as imposed on 'muqaddams.'

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This was the state of things when the Nágpur country escheated in 1854, and preparations were commenced for a regular Settlement. A very great deal of discussion took place at the time concerning the position which was to be given to the patwárís under the new arrangements; but the view which finally prevailed was that it would be a mistake to look beyond the málguzár for the preparation of the returns annually required by Government: it was held that, in return for the gift of proprietary-rights, the málguzárs might fairly be called upon to prepare these returns and be held responsible for preparing them; and that, under these circumstances, it would be impolitic to give the patwárí any higher status than that of the málguzár's servant. The patwárís were accordingly to be recorded as servants of the málguzárs instead of village or Government servants, but any hereditary rights which they could establish were to be also recorded in their favour.

These orders led to very different results in different districts.

In the Nágpur districts the málguzárs were as a rule given the option of either maintaining the existing patwárís, or of dismissing them and making such other arrangements for the preparation of the annual village papers as they preferred. In most cases the málguzárs elected to dismiss the patwárí, who was generally obliged to maintain himself by taking up work on contract terms. It should be added that in these cases the perquisites paid to the patwárís by tenants, were appropriated by the málguzár as the patwárís' representative. Almost the whole of the patwárís were dismissed in this way; the staff was practically disestablished and its duties transferred to the málguzárs. An exception must be made in favour of certain watándár patwárís (kulkarnís) in the Wardhá district, who, though recorded as servants of their málguzárs, were yet secured in their posts by an entry in the record-of-rights.

In the Chhattísgarh districts of Raípur and Biláspur and in the district of Sambalpur, no patwárís existed previously to the regular Settlement. In Ráipur and Bilúspur a patwárí staff was organized on a halkabandí or circle system. This action, though theoretically based on the consent of the málguzárs, really had the effect of establishing a staff of Government patwárís. The patwárís were remunerated by a cess which the málguzárs agreed to contribute.

In the Sambalpur district matters were left as they were and no patwárís were appointed. The gáoṅtiyás were held responsible for the proper preparation of the village papers.

In the Ságar-Narbada districts and in Nímár, a patwárí staff was, as already stated, in existence and had previously been roughly organized on the circle system. The Settlement Officers found some difficulty in dealing with the staff under the orders of the day. The patwárís were to be placed in the position of private servants of the málguzárs, but it was felt that this might jeopardize the means of livelihood of a body of men who had materially assisted in Settlement work, and the result was that a middle course was followed. The patwárís were recorded as the servants of the málguzárs, but the málguzárs were, in turn, bound to maintain patwárís for the preparation of the village papers, and were therefore precluded from dismissing the patwáris and appropriating their fees, as had been done in the Nágpur country. Moreover, in order to protect existing incumbents from capricious disturbance, a very large proportion of them were recorded as hereditary. This ended in immensely strengthening the position of a large portion of the patwárís. As they were not Government or village servants they were secure from dismissal by the State, and as they held office in virtue of hereditary rights they were secured against dismissal at the hands of the málguzárs. The office of patwárí came then to be recorded as the personal property of the patwárí's family, and instances of its mortgage, division, and even sale, were far from uncommon.

§ 14. *Résumé of History.*

Briefly, then, at the time of the passing of the Central Provinces Land-Revenue Act (1881), the state of things was as follows :—In the districts which formerly constituted the Ságar-Narbada territory, and in Nímár, a patwárí staff existed, each patwárí holding charge, as a rule, of a circle of two or more villages. But the circles were of very uneven size, and were not compact ; the villages which constituted them were often scattered over a considerable extent of country. The patwárís were practically beyond the control of either the Government or the málguzár. In the Nágpur districts patwárís only existed in a few places. In Ráipur and Biláspur there was a patwárí staff, holding charge of circles of villages; but the staff was a very weak one, and quite unable to perform its duties. In Sambalpur there were no patwárís at all.

The sources from which the patwárís were remunerated differed considerably in different places. In two districts (Jabalpur and Seoni) they were mainly paid by the málguzárs in cash, the payments being calculated by a percentage on the rental. In three other districts they were similarly paid in cash, but according to a percentage on the revenue. In the Hushangábád and Betul districts their income was mainly derived from fees in kind, to which the tenants contributed by far the largest part. In the other districts their emoluments consisted partly of money payments by the málguzárs, partly of rent-free land, and partly of fees in kind. It should be added that the emoluments arising from each circle were appropriated to the patwárí of that circle, and that there was consequently the very greatest inequality of remuneration. The income of the Hushangábád patwárís, for instance, varied between R. 1600 and R. 70 a year!

§ 15. *Legal Provision regarding Patwárís.*

Secs. 114-49. The Revenue Act may now be referred to. The sections which originally dealt with this subject were found inadequate, and they have been considerably amended by the Act of 1889. In the original sections the Government was given sufficient powers of reform in the case of districts where patwárís were already in existence. The Chief Commissioner was vested with authority to make rules laying down the limits of circles; the amount and method of remuneration; prescribing the duties which the patwárís were to perform for the Government and for the village community; and providing for the punishment and dismissal of patwárís who failed to perform them. But in the case of districts where no patwárís were in existence—that is to say, in the case of the Nágpur districts—the powers were far less complete. The Chief Commissioner had no authority to form circles in these districts and to appoint patwárís to them. All that was possible was to call upon the málguzárs to perform properly the duties which in other parts of the province were laid on the patwárís, or require them to appoint patwárís, and inflict fines in case of neglect. Section 145 has now been repealed; and by the amendment of Sections 144 and 146, the Chief Commissioner is empowered to raise a fund for the pay of the *patwárís* and the contingent expenses of their offices, from all classes of proprietors and tenants, and to make rules for their appointment everywhere. Act XVI of 1889, sec. 30.

§ 16. *Practical Re-organization.*

The re-organization of the patwárí staff has now been completed. The limits of the existing circles were altered so as to render each compact, and to reduce the area of all large circles to an easily manageable size. This necessitated in some cases considerable changes; but in making the reform, care was taken to adhere to existing arrangements except where absolutely necessary in the interests of efficiency, and not to disturb them merely in order to obtain uniformity. No change was made in the method of remuneration, except that in some districts where tenants paid no fees, the levy of fees was legalized; the total amount of remuneration paid to the patwárís by málguzárs and tenants was not materially increased, but its distribution amongst the patwárís was modified so as to ensure a reasonable income to the lowest paid circles. All sums which were paid to the patwárís in cash were made payable into the Treasury, whence they were re-disbursed to the patwárís in such proportions as served to remedy very gross inequalities of remuneration. In fact, instead of the cash payments of each circle being exclusively appropriated to the patwárí of that circle, they were thrown into a district fund, which was in some cases augmented by a grant from provincial revenues.

§ 17. *Present State of Things.*

The patwárí staff is now of very great service both to the people and to the Government, and fulfils its duty in the maintenance of an accurate record of the holding, the rent, and the rental payments of each tenant. The patwárís are proving a satisfactory agency, by means of which the re-survey of village lands, which has been found necessary in order to revise the Settlements, is being effected. They are taught surveying on a very thorough system worked in most districts by professional surveyors whose services have been placed at the disposal of the provinces by the Imperial Survey Department for this purpose. By utilizing the patwárí's services for the Settlement survey, the Government is relieved of great expense, and the people of the cost and harassment which would result were the re-survey effected by external agency temporarily entertained for the purpose. Moreover, as each patwárí is responsible for the survey of his own circle, the village maps will be annually corrected by the men who prepared them; and this will immensely facilitate the work of maintenance, and render, it is hoped, any detailed re-survey of the land unnecessary in future.

It remains to be added that the foregoing remarks only apply to the khálsa area of the provinces, the area, that is to say, held by málguzárs direct from Government and not by Zamíndárs. The patwárí system is now, however, being extended to Zamíndárí estates.

§ 18. *The Rules for Patwárís.—The Records maintained.*

The duties of patwárís are prescribed and fully explained in *Revenue Circular*, Section I, Serial No. 12 (being rules under Sections 144 and 146 of the Land-Revenue Act). There is no occasion for here repeating the rules about disqualification, or the distinction between patwáríships held as a 'watan,' and those not, about dismissal and punishment, or the duty of reporting certain occurrences.

The documents which are kept up are the following:—

(1) The village map;
(2) the Khasra or Field Index to the map[1];
(3) the 'Roznámcha' or 'Diary of occurrences.' This is kept four years and then filed and destroyed, and a new one opened.

From the 'khasra' certain statistical returns are completed and filed at the tahsíl on fixed dates.

As to the *map*; the patwárí keeps one copy intact, and on the other makes alterations annually. Every plot must bear a number; the old Settlement number, where there has been no change, and that number, with a subordinate number, when it is only a case of subdivision. Where there has been a union of two plots, both (or more than two) numbers are given with a *hyphen* between.

As to the *Diary*; it notices the death of proprietors and revenue-free or privileged holders from Government; all mortgages, sales, or transfers which involve a change in the register of málguzárs (proprietors); cases of encroachment on Government land; cultivation of land occupied by groves; destruction of boundary-marks; infringement of conditions of lease held from Government; calamities,—hail, locusts, flood, fire, disease; emigration or immigration of settlers; visits of inspecting officers. At the end of each month a note is made of the general condition of crops, whether good, or injured by excessive rain, frost, blight, or insects. Orders given to the patwárí are also entered. Every entry is distinguished by a clear serial number. Each year's diary is in a bound volume from 1st June to 31st May.

As to the annual *khasra*, the form given in the *Circular* explains itself; it gives a complete description of each field, its number, area, soil or character, name of proprietor, tenant, sub-tenant, under what crop, if double-cropped, and if part left uncultivated, estimated crop (expressed as so many annas in the rupee, sixteen annas being normal crop[1]), and remarks as to means of irrigation, &c. (fifteen columns in all). To correct the map and prepare the khasra, a tour of inspection is of course indispensable; it is made as soon as the cold weather sowings (for the rabí') have been completed. Where crops are sown between January 1st and June 1st (sugarcane and hot-season crops) a second inspection is made.

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[1] This is really the basis of everything, as so often pointed out. The map can only indicate a field by its serial number, but that number in the khasra shows the owner and other particulars. If reference only can be made to the jamabandi or list of holdings, it is very difficult to find out any particular field.

At the end of the *khasra* is noted the number of permanent and temporary wells in use, the tanks, ploughs, and plough-cattle. No copies are made, the original is kept by the patwárí for a year and then filed in the Tahsíl office (for the term of Settlement).

§ 19. *The Compilations from the Khasra and Statistical Tables.*

The *Mílán-khasra* gives a statistical (total) abstract of all land in the khasra, showing that (1) so much is included in proprietors' home-farm (sír) and in tenant or other holdings, (2) so much not included. The *former* (1) will consist of—land under crop; cultivated but fallow for that year; out of cultivation. The *latter* (2) will consist of—'tree-forest,' 'scrub,' 'under water' (riverain villages, or where tanks occur), hill or rock, groves, occupied by roads and buildings. A separate column shows the double-cropped area; and other columns, the means of irrigation, number of ploughs and plough-cattle.

The '*naksha jinswár*' is a statement which varies in different districts to suit the facts; it shows the area under each kind of crop, of the kharíf (locally called sihárí) or autumn harvest (rice transplanted, rice broadcast, juár, kodo, &c. &c.): the same of the hot-weather (sugar, melons, &c.): and crops of the rabí' (locally 'únhári'), wheat, barley, gram, peas, lentils, linseed, tobacco, &c. &c.

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[1] See *Revenue Circular*, Section 3, Serial No. 11.

§ 20. *The Jamabandí.*

The '*jamabandí*,' called the 'rent-roll,' is really something more than a list of rental dues; it is a grouping of the fields under the several holdings, whether proprietor's or tenant's. But the demands shown against each, the collections, and the arrears for the year ending 31st May, are *rental*, not *revenue*, demands. The revenue-roll is separately made out by the patwárí.

The short form may be given:—

Col. 1. Serial number of the *holding*.

2. Name of tenant, father's name, and caste.

3. Name of proprietor (to whom the rent on account of each holding or portion of a holding is payable).

4. Khasra number of each field comprising the holding.

5. Area.

Then comes the column headed 'On account of current year,' subdivided into:—

Demand { grain (amount and value).
Cash.
Total.

Collections.

Balance.

Then columns for collections on account of previous years, viz. 'Third year back,' second, first.

Lastly, are columns for the name and rent of sub-tenants and tenants (if any) on 'sír' land, and one for 'Remarks[1].'

These are the column headings (sixteen in all), and they have to be filled by lines dealing, *seriatim*, with the different kinds of land in the *holdings*. As these give an insight into village economy, I will repeat them; for ordinary villages they are arranged thus:—

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[1] The 'remarks' are notes of changes occurring after the year which the 'jamabandí' describes, and are intended to warn the patwárí when making out the *next* year's jamabandí.

a
'Sír' or the proprietor's 'home-farm' (see definition in the Revenue Act).
Land cultivated by proprietors, not being 'sír.'
Land held by plot-proprietors (málik-maqbúza).
Land held by revenue-free grantees (mu'áfí, úbárí, &c.).

b
Land held by 'absolute occupancy-tenants':—
- (*a*) as such[1];
- (*b*) in ordinary tenancy.

Land held by occupancy-tenants:—
- (*a*) as such;
- (*b*) in ordinary tenancy.

Land held by ordinary tenants (not being sír land).
Land held by tenants *rent*-free (from the proprietors).
Land held by tenants holding in grant for service.

But in Sambalpur, where the economy is different, the order will be thus:—

Unassessed bhográ (including 'birtí' and 'negí[2].')

This consists of that portion of the home-farm which the gáoṅtiyás are allowed to hold revenue-free (up to one-fourth; see p. 472 ante).

Assessed bhográ (that portion of the home-farm which is not exempted from revenue).

Held by raiyats (raiyatí land).

Held by new raiyats—located since Settlement.

Held by cultivators of niwár land[3].

Revenue-free holdings (mu'áfídárs, &c.).

Service holdings.

At the end of the 'jamabandí,' which has thus far accounted for the 'holdings' in the village, is added the area occupied by groves, by forest, by scrub and grass, by hills, rock, &c., under water, and by roads and buildings (with a note of any income from siwái—the jungle-products, &c.). The totals will then agree with the khasra totals.

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[1] See *Revenue Circular*, Section 1, Serial No. 26.

[2] 'Birti' or small proprietary plots held in the bhográ by relatives, &c.; 'negí' is the gáoṅtiyá's deputy and the land held by him.

[3] Niwár is shifting cultivation elsewhere (in the province) called Dhayá or bewar.

§ 21. *Abstract of the Jamabandí.*

A useful *abstract* of the jamabandí is made out. At the top of the columns appear the classes of land:—

(1) 'Held by málguzárs' (proprietors);

(2) held 'revenue-free';

(3) held by 'occupancy-tenants,' and so on, as above described.

Under each of the major columns so occasioned, are sub-columns giving the facts, e.g. under (1) 'area held as sír and other land'; under (2) will be 'number of holdings,' 'area,' 'revenue assessable'; under (3) will be 'number of holdings,' 'area,' 'rent,' and so forth throughout.

At the end come columns showing rent collected and land held rent-free, with columns for land held by sub-tenants and its rent demand, and sír land held by tenants.

§ 22. *Receipt Books.*

One other branch of the patwári's duty may be noticed. He has to see that *every* tenant has a '*rasíd-bahí*,' or receipt book, for his rent-payments (whether in cash or kind); further that this book has entered in it (as soon after the beginning of the agricultural year as possible) a distinct statement of the rent payable:—

(1) On account of past year's arrears[1];

(2) on account of current year:—

First instalment.

Second instalment.

Total.

This is dated and signed by the patwárí, and a note is made of the 'authority' for the entry; i.e. if both parties agree, the word 'qabúli'; if the proprietor is not present, so that there was only the tenant's word for it, 'ektarfa' (i. e. *ex-parte*); and if both are present and differ, the amount is entered *as claimed by the proprietor*, with the addition 'takrári' (i. e. disputed).

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[1] Limited to three years (see Chapter VIII, Section 78 of the *Circular*).

When payments are made, the patwárí enters them, showing the date, and amount, and the demand to which credited (e. g. arrears or current). Here, too, he notes if the payment was actually made before him (rú-barú), or acknowledged by both parties (qabúli), or 'ektarfa,' or 'takrári,' as before. The patwárí, by rule, enters any payment against the current demand first as long as there is any unsatisfied, unless both parties expressly desire otherwise.

§ 23. *Further details as to Patwárí's duty.*

The student must consult the circular for details, but the above will give him a sufficient idea of the system and how it works. I have mentioned the district funds which are formed out of the cesses levied, from which patwárís are paid.

There are also rules for reporting to Government the state of the district fund and its administration, which it is not necessary to go into.

§ 24. *The Kánúngo and Revenue Inspector.*

Though not mentioned in the Act, as being merely a Supervisor or a Statistical Recorder, the Kánúngo has long existed; indeed, in the 'watan' districts there are watandárí pargana officers as under the Muhammadan government, surviving to this day. Formerly there was a Kánúngo in each tahsíl, and he was regarded rather as a sort of general tahsíl assistant.

Now, the one Kánúngo (called by that name) is kept at the Tahsíl Office, where he acts like the Registrar Kánúngo of the North-Western Provinces. One of his most important duties is the tabulation of village returns filed by patwárís, in a series of registers, so that the principal facts connected with the rural economy of each village in the pargana are brought together, and progress or retrogression during a series of years can be ascertained at a glance.

In the villages, the visiting work is done by 'Revenue Inspectors,' of whom there are (on an average) two to a tahsíl, each looking after from twenty to forty patwárís.

Rules regarding Kánúngos and Inspectors will be found in *Revenue Circular*, Section II, No. 2 and No. 4.

The duties of Revenue Inspectors are comprised under the heads of—

(1) Superintendence;
(2) instruction of patwárís;
(3) maintenance of the maps, and
(4) testing the records.

Under the first head comes the duty of seeing to the proper residence of the patwárís, their attention to rules, and of keeping up a register showing how the different records are progressed with, and the dates of completion. The Inspector has also to teach the patwárís surveying, map-drawing, and area-calculation. He is charged with seeing that the maps are correct, and that where maps have become overcharged with corrections, new tracings are made, showing the new boundaries and omitting the obsolete altered ones. He has also to see to the supply of surveying appliances, and to test the measuring-chains.

The rules then go into details about checking a percentage of the entries in the *khasra* and *jamabandí.*

The *District* Revenue Inspector has to visit during the cold weather and inspect the work of the Circle Inspectors, and furnish inspection reports as to the work of each. An abstract of these reports to the Deputy Commissioner is furnished to the Director of Agriculture.

The Tahsíl Kánúngo who compiles statistics (which are in effect the totals of village statements) has duties which are described in *Revenue Circular*, Section VII, No. 4, and need no comment here.

SECTION II.—REVENUE BUSINESS.

(A) Maintenance of Records.

§ 1. *General Remarks.*

I have already spoken of the legal provisions regarding the records prepared at Settlement, and of the somewhat enlarged provisions made in the Land-Revenue Act for their correction, due no doubt to the uncertainty that there was about some of the original entries, and the fact that supplementary papers had in some cases to be prepared.

A great part of the work of 'maintenance'—in one sense of the word—is effected by the arrangements made for the patwárís' annual papers, which keep the records up to date, and obviate the necessity (which occurred under the older Settlement system), for making an entirely new set of records, every twenty or thirty years, or whatever the term of each Settlement was.

When a future revision of Settlement comes on in a district, the result of this change will be that the Settlement Officer (if a separate officer is required) will find the maps and the field list and statement of holdings, correct to date, so that he can at once revise the assessments on the basis of these.

The administration-paper, which is a permanent record, may require a certain revision, but in the nature of things it cannot be very much.

There is, however, one other matter which, it will have been observed, does not come under the patwárís' annual compilation, because changes in it require to be made in a more formal way. I refer to the list of proprietors and shareholders, called the 'khewat.' If the village is held by a single owner, this is a very simple affair; but in time, a single owner multiplies into a number of descendants, who then have either their shares, or their separated holdings, or both, to be recorded. In this list changes take place by death and inheritance, by sale and gift, and so forth. When such a change takes place, it is absolutely necessary, not merely that a statistical note of the fact should be made, but that it should be formally reported and sanctioned, because it involves not only the transfer of property, but the relief of the former holder from his revenue-liability to Government, and the entry of a new revenue-payer's name. The subject is dealt with in the Land-Revenue Act, and in *Revenue Circular*, Section I, Serial No. 14.

Act XVIII of 1881, secs. 125-129.

§ 2. '*Proprietary Mutations.*'

It is to be noted that these are required both for co-sharers in the 'mahál' or revenue-paying estate, *and* for plot-proprietors (málik-maqbúza). The register is kept at the *tahsíl* by the kánúngo. Part A shows the persons at the beginning of the year possessing shares or being málik-maqbúzas; and includes 'mu'áfídárs' (Revenue-free holders) of whole villages, or of plots. It shows the fractional amount of share, the area and revenue, as well as the name.

Part B shows the changes during the year, giving the fractional-share, area, consideration paid, if a sale, date of transfer, date of authority for mutation, and fees levied.

All transferees are bound to give notice to the Tahsíldár, Sec. 126.
'within a reasonable time[1]'; and there is a penalty for Sec. 127.
omission. On the receipt of notice, a proclamation for objections is issued; when the date for objections is passed, the transfer is reported to the Deputy-Commissioner or Assistant-Commissioner empowered to deal with these cases, and orders are sent back endorsed on the report.

If there is a dispute on the ground that *possession*[2] has not been transferred to the person claiming to have his name entered, or if the transfer of *possession* is not clear, all the papers are sent up to the Deputy or Assistant-Commissioner, who passes final orders after such further inquiry as may be needed.

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[1] As to what is a reasonable time, see *Revenue Circular*, Section VI, Serial No. 6.

[2] It will be observed that *possession* is the basis. A person may come and object, say that a person not really an heir, has succeeded to a deceased owner's share. If the person has got possession, and there is nothing *primâ facie* against the transfer, it will be recorded, and the other party claiming to be the true heir will be referred to the Civil Court.

It will be observed that practically this procedure is identical with that of other provinces where we deal with village Settlements and shares in landed rights.

Sec. 130. Under this head I ought, perhaps, to notice Section 130 of the Act; this requires a watch to be kept on revenue-free holdings, so that when life-grants or others, lapse, the revenue may be duly assessed.

(B) Partition of Estates.

The Revenue Act, as at first passed, said nothing about private partitions, because a separate Act (XIX of 1863) on the subject was in force. The only partition contemplated by the Land-Revenue Act (Section 136) was that which referred to the division ('perfect partition' of the text-books) of a revenue-paying estate into two or more 'mahâls,' i.e. units having a separate revenue responsibility. This is now changed. Act XIX of 1863 is repealed, and Section 136 also, and Chapter X A of the Revenue Act makes full provision regarding both kinds of partition.

In introducing the amending Act into Council, Mr. Crosthwaite, thus explained the new provisions:—

> 'From a revenue-point of view it is inconvenient to have incompact mahâls, that is, to have the lands of one mahâl mixed up with the lands of another mahâl ; but owing to the physical features of the country, it is frequently impossible to make a fair partition so as to make the shares compact. The good land often lies in one place, and the inferior land in another. It is consequently extremely difficult to make a perfect partition which will be fair to the sharers, and at the same time will not cause inconvenience to the revenue-administration. The unlimited power of claiming a perfect partition is open also to another objection. Every mahâl must be separately assessed and should ordinarily have its separate record-of-rights, and if a number of small mahâls, assessed separately with perhaps less than R. 26 annual revenue are created, great inconvenience and expense will be caused to the administration. In two districts (Chândâ and Nîmâr) it was provided in the

record-of-rights at the last Settlement, that a perfect partition should not be made without the sanction of the Chief Commissioner; and considering that proprietary rights have so recently been granted in the Central Provinces, the Government can fairly impose limitations on the right to perfect partition in other districts, and can refuse to allow changes affecting the security of the revenue during the currency of a Settlement. Where málguzárs have jointly agreed to pay the Government revenue, the Government may fairly decline to release them from their joint liability. At the same time it is considered that every facility should be afforded to sharers to obtain an imperfect partition, so that they may have a fair division of the village lands and that each may hold his share in severalty. It is believed that perfect partition will seldom be asked for, if an imperfect partition can readily be obtained.

'The new sections inserted, provide that any co-sharer may claim at any time imperfect partition of his share, but that perfect partition can only be claimed at the time of Settlement, and then only by a sharer who holds his share in severalty. Provisions adapted from the North-Western Provinces Land-Revenue Act, are made for carrying out an imperfect partition. In regard to perfect partition, power is given to the Settlement Officer, subject to rules made by the Chief Commissioner, to declare that a share held in severalty is a separate mahál.'

These partition rules do not apply to Zamíndárís and other estates, which, in the sanad, are declared impartible, and where the succession is by primogeniture[1].

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[1] See Colonel Keatinge's remarks at p. 14 of the *Chánda Correspondence*. There is, of course, a great difference (as regards effects) between subdividing holdings of cultivating proprietors and subdivision of landlord's rights. Mr. Pedder remarks that the former is inevitable as families increase, and the smaller area necessitates higher cultivation, so that there is some compensation. 'But when the *rental* is subdivided, each son of a landlord, with a smaller *income*, has the same position to keep up as his father had, and the consequent temptation to rackrent his tenants is irresistible.' It is partition that gives rise to the necessity for the rather complicated arrangements about headmen. For when a single málguzár existed, he, if resident, or, if non-resident, his agent, would be both lambardár (for revenue), and muqaddam (for executive duty); and so, if the family remains undivided, and the eldest member manages as head. But where division takes place, the lambardár may become non-resident and his functions as muqaddam have to be provided for by an agent on the spot.

(C) Minor Settlements (occasioned by Lapse of Free-Grants, Alluvion and Diluvion).

This subject calls for no special remark. Alluvion and diluvion are mentioned in several of the village papers, but seem to give rise to no special rules or systems of treatment of special areas, as in the North-Western Provinces and Panjáb.

(D) Maintenance of Boundaries.

Act XVIII of 1881, sec. 132. The Deputy-Commissioner has all the powers of a Settlement Officer (when a Settlement is not in progress), in causing boundary-marks to be erected and repaired, and Sec. 45. in recovering the cost. A special remedy for injuring Secs. 134-5. boundary-marks is provided; so that, in addition to any penalty inflicted under the Indian Penal Code, Section 434, a sum not exceeding R. 50 may be levied to defray the expense of restoring the boundary and rewarding the informer. And if the actual author of the injury cannot be discovered, the mark is to be re-erected or repaired, 'at the cost of the proprietors, mortgagees, or farmers, of such one or more of the adjoining lands as the Deputy-Commissioner thinks fit.'

(E) The Collection of the Land-Revenue.

§ 3. *The Agricultural Year.*

Sec. 4, cl. 5. In the Land-Revenue Act, the 'agricultural year' means the year beginning on the first day of June, or on such other date as the Chief Commissioner may, in case of any specified district or districts, from time to time appoint.

In Sambalpur the *Settlement Report* notices the inapplicability of this date to the district, where the year begins at the full moon which occurs about Christmas time[1]. I have not found any orders on this subject.

Under the Tenancy (Act IX of 1883) the definition is the same. In the Ráipur and Biláspur districts, *Revenue Circular* (Section I, Serial No. 21) prescribes the 1st April as the date.

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[1] *S. R.*, Section 97.

§ 4. *Payment of the Revenue.*

Here, as elsewhere, the year's revenue is payable, not in one sum, but in 'qists' or instalments. The fixing of these is a matter requiring care. They should be fixed with reference to the dates at which the landlords can get in their rents, and also with reference to allowing a time for the disposal of the produce after harvest time, without compelling the owners to part with it in a glutted market, below its value.

The subject, in its general aspect, has been discussed in the Introductory Chapter (Vol. I. Book I. Chap. V. p. 367), and here I need only refer to the local orders to be found in *Revenue Circular* (Section VI, Serial No. 8). This circular is issued under Section 90, Land-Revenue Act, which gives the Chief Commissioner power 'to fix the number and amount of instalments, and the times, places, and manner at and in which the land-revenue . . . shall be paid.'

At present the dates are:—

	Rabí.	Kharíf.
Jabalpur Division	1st February	1st June.
Narbada ,,	,,	,,
Nágpur ,,	10th February	15th May.
Chhattisgarh, Ráipur, and Bilâspur	1st March	1st June.
Sambalpur	,,	1st May[1].

I have already stated the rule about *rent* instalments. (*Revenue Circular*, Section I, Serial No. 11.)

Instalments are collected by the lambardárs and paid into the tahsíl treasury, as already stated (p. 505 ante).

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[1] These dates are found convenient. But the proportion of the total to be paid on each date is a more difficult matter: 'it appears that a considerable portion of the revenue paid on account of the *kharíf* harvest must be provided, either by savings from the receipts of the *rabí* harvest, or by borrowing . . . The Chief Commissioner is of opinion that it is impossible to correct this inequality at present (1885). Opportunity should be taken of gradually correcting any glaring inequalities that may come to notice, and which málguzárs or tenants may make the subject of complaint. In such cases Deputy Commissioners with the Commissioner's sanction may revise the proportion of the instalments, and alter it to suit the convenience of the people.'

§ 5. *Recovery of Arrears.*

When any sum due under a Settlement, or a sub-Settlement, is not paid according to the orders issued under the Sec. 90. authority of the Land-Revenue Act, it becomes an arrear; and 'all the persons with whom such Settlement or sub-Settlement was made, their representatives and assigns, shall thereupon become jointly and severally liable for it, and shall be deemed to be defaulters within the meaning of this Act.'

It is important to notice the difference between revenue payable direct to Government, and revenue payable to málguzárs or lambardárs, who, in their turn, have to make good a certain sum direct to the Treasury.

In some cases of sub-Settlement, the inferiors pay to Government direct, and the superior receives his allowance from the treasury. In others, and in all cases where there is no sub-Settlement, and where there are a number of co-sharers, the representative of the body, or the superior, pays direct to Government, and gets in the shares from the body, or from the málik-maqbúzas, &c., afterwards.

A 'Statement of Account' authenticated by the signature of the local Tahsíldár, is conclusive evidence of the existence of any arrear *payable direct to Government*, and of its amount and of the persons who, in respect thereof, are Sec. 92. defaulters.

Where a málguzár has to recover an arrear of revenue *not being revenue payable direct to Government*, and where a lambardár has to recover from the co-sharers a sum of revenue which is payable through him (and for which he is held answerable in the first instance), it may be recovered by suit with certain privileges as to not allowing set-off to Sec. 115. be pleaded, for which Section 115, Land-Revenue Act, may be referred to.

But a lambardár or sub-lambardár, entitled to recover an arrear, or a málguzár having to receive an arrear due under a sub-Settlement, need not bring a suit, but may apply to the Deputy-Commissioner to recover such arrear as if it were an arrear payable direct to Government. It is in the discretion of the Deputy-Commissioner to give this aid, but if he does so, he must give the opportunity to the defaulter to show cause why such assistance should not be given. Sec. 116.

§ 6. *Málguzár's Revenue and Rent-free Contracts.*

It will be observed, as regards málguzárs recovering revenue from subordinate holders, that they are legally incompetent, after 1881, to grant revenue-free holdings under themselves, unless the Chief Commissioner makes a special Sec. 117. order. That means that improvident málguzárs cannot contract themselves out of the power to meet the Government demand from them, by undertaking payment for holdings under them. With this provision may also be read Act IX of 1883, sec. 15. Section 15 of the Tenancy Act, which practically prevents the force of any agreement for rent less than the revenue; and the landlord may apply for enhancement, such lease notwithstanding.

§ 7. *When an Arrear is Disputed.*

Where the direct payer to Government wishes to dispute Act XVIII of 1881, sec. 92. his 'arrear,' by the effect of Section 92, he must pay it in at once; but he may do so under protest and institute Sec. 114. a civil suit for recovery.

Arrears denied, in the case of sub-proprietors, &c., who do not pay direct to Government, can of course be questioned in the suit brought for their recovery, or if the Deputy-Commissioner is asked to apply process for summary recovery, he would probably refuse if he saw there was a *boná fide* question about the arrear being really due.

§ 8. *Interest.*

Interest is not charged on arrears unless, in a suit for Sec. 119. arrears due under a sub-Settlement, the Court thinks fit to award it. And as regards arrears due direct to Government, the Chief Commissioner can, by a 'general or special order' direct that it be charged.

§ 9. *Process of Recovery.*

The process of recovery, as provided by law, closely resembles that enforced by the other Land-Revenue laws under the 'village' system.

Sec. 93. All processes may be preceded by a *notice* of demand. Sec. 113. Section 113 enables rules to be made on this subject (see *Revenue Circular*, Section I, Serial No. 4). The rules prescribe the form, method of service, and costs (recoverable along with the 'arrear' as part of it). They lay down that the notice is to issue only when the arrear has actually accrued, and only when it is believed that the issue will *secure payment*, and not as a means of punishing or fining a defaulter.

The more serious processes for recovery of a 'direct' Sec. 94. arrear are given in Section 94. They are stated in the order of severity:—

(*a*) arrest and detention in Civil Jail;

(*b*) sale of moveables;

(*c*) attaching the estate or share and taking it under direct management;

(*d*) transferring the same to a solvent málguzár;

(*e*) annulling the Settlement of the estate, or share;

(*f*) sale of the same;

(*g*) selling other immoveable property, i.e. other than that on which the arrear has accrued.

The *provisos* must be read in the Act itself. All the details of the procedure are also clearly given in Sections Secs. 95–112. 95–112 (inclusive). I will only call attention to Section Sec. 107. 107, which saves the rights in sír land, in certain cases, the law being tender of absolutely depriving a defaulter of his Sec. 108. means of livelihood. Section 108 explains the nature of the estate taken by the purchaser, in the (rare) case of sale for arrears; regulating the necessary exoneration of the estate from leases, liens, and incumbrances; and defining what contracts are voided and what are not voided by the sale. Certain privileges of *pre-emption* are also accorded.

This prevents the dismemberment of an estate, and enables the other solvent parties having a family or local interest, to acquire it and so keep out strangers.

(F) Rent and Revenue Cases.

§ 10. *Cases under the Land-Revenue Act.*

It will be observed that the Revenue Act does not speak of *Revenue Courts.* Where it is necessary, the Settlement Officer may be invested with powers of a Civil Court to try certain classes of cases; but then he becomes a Civil not a Revenue, Court. Sec. 33.

Nevertheless, there are a number of matters which Revenue Officers alone can dispose of, and which require the hearing of both parties and the taking of evidence. For such purposes, the Act contains no procedure of its own, but directs that Revenue Officers may be invested with certain powers of a Civil Court under the Civil Procedure Code. Sec. 15. (As to powers of the different grades, see pages 501, 2.) And the Act provides for appeal, for the withdrawal of cases, and for revision and review, as usual. Sec. 152. The Act enumerates the subjects which are exclusively within the jurisdiction of Revenue Officers, and regarding which a Civil Court has no jurisdiction. Practically, the subject is dealt with exactly as in the North-Western Provinces, Oudh, or the Panjáb.

§ 11. *Rent Cases, &c.*

Under the Tenancy Act, the nature of the jurisdiction is explained in *Revenue Circular*, Section I, Serial No. 2. 'Roughly speaking, the judicial functions of the Revenue Courts have been entirely abrogated. Their functions will now be administrative and executive only. Act IX of 1883, secs 63, 65. Whatever is not specifically assigned to Revenue Courts is (speaking generally) devolved on the ordinary Civil Courts. Revenue Courts will no longer try suits, but will only deal with a few specified kinds of applications.'

The student will here refer to Section 63 of the Tenancy Sec. 63.

Act and see the short list of matters which Revenue Officers alone have jurisdiction in[1]. The main thing is that the Settlement Officer or Revenue Officer, as the case may be, can alone *fix* rents, and that no Civil Court can call in question any rent so fixed.

Sec. 65. Section 65 makes over all *suits between landlord and tenant, as such*[2], not being matters mentioned in Section 63, to the Civil Courts; merely providing that the Judge of the Civil Court should be competent to dispose of the case by reason of his also being a revenue or Settlement officer. The Chief Commissioner has power to direct that all, or any class of, such suits shall be heard and determined only in such (competent) Courts as he thinks fit. And special registers of tenant-suits may be kept up. The Chief Commissioner has exercised both powers[3].

(G) Remission and Suspension of Land-Revenue.

I have not found any separate rules or orders under this head[4]. When the Government of India issued, in October, 1882, their Resolution proposing to classify all lands into 'secure,' 'partially secure,' and 'insecure,' and to provide for the treatment of each by a prescribed scale of deficiency, which would indicate suspension of a portion of the revenue-demand, and its ultimate remission in bad cases, the Central Provinces replied, that the classification of area was receiving attention, and that hitherto the revenue was so light that it had been collected without difficulty, and there did not appear to be any risk of failure.

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[1] As to what grades of officers dispose of what matters, see the Notification of 15th December, 1883, reproduced in the *Revenue Circular* above quoted.

[2] I. e., (*a*) suits by landlord for ejectment of tenant; (*b*) by tenant to recover for wrongful ejectment; (*c*) for arrears of rent; (*d*) by tenant for penalty for illegal excessive levy; (*e*) by tenant for the landlord refusing a receipt for rent.

[3] See Notifications under 65 (*b*) in the same *Circular*. Suits in the (2) note marked *a* and *b* are heard by Courts not inferior to Assistant Commissioner, 2nd class; the others are heard by any original Court of whatever grade under the Courts Act (XIV of 1865).

[4] The Director informs me: 'There are no rules for the suspension and remission of land-revenue. Luckily in these provinces, owing to the light Settlements, the question very rarely comes up for disposal; and each case is reported on the orders of the Chief Commissioner' (Nov. 1889).

(H) General Business.

I have before explained that my object is to deal only with those duties of revenue officers which are *directly* connected with the land-revenue and tenancy. I therefore pass over duties only indirectly bearing on these matters; such as cases under the Land Acquisition Act (land for public purposes), and applications for general *loans* to agriculturists[1], under Act XII of 1884 [see *Revenue Circular*, Section I, Serial No. (6)], and loans under the Agricultural Improvement Act XIX of 1883[2] (*Revenue Circular*, Section I, Serial No. 20). For the same reason, I omit all reference to the management of estates of minors or incapable landholders by the 'Court of Wards,' a subject now provided for by Act XVII of 1885[3], and a series of orders and rules (*Revenue Circulars*, Section IV).

Attention deserves, however, to be drawn to the orders which, in this province, direct regular 'harvesting experiments,' with a view to 'making systematic effort to improve our present knowledge of the average outturn of the principal crops grown in these provinces.' It will be enough to refer to the *Revenue Circular*, Section III, Serial No. 2, on the subject.

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[1] 'For the relief of distress, the purchase of seed or cattle, or any other purpose *not* specified in the Land Improvement Act, 1883,' but 'connected with agricultural objects.' This Act repeals the old 'Taqávi' (that is the vernacular for these loans) Act of 1879.

[2] I.e. Special loans for 'improvements' which add *to the letting value of land*, including tanks, wells, irrigation arrangements, drainage, reclamation, &c. (see Section 4 of the Act).

[3] The circumstances under which the Act was passed, appear in the *Gazette of India*, 17th October, 1885, Part IV, p. 255. It came into force on 9th Oct. 1885.

PART IV.—THE PANJÁB.

CHAPTER I. THE LAND-REVENUE SETTLEMENT SYSTEM.
„ II. THE LAND-TENURES.
„ III. LAND-REVENUE OFFICERS AND REVENUE BUSINESS AND PROCEDURE.

CHAPTER I.

THE LAND-REVENUE SETTLEMENT SYSTEM.

SECTION I.—INTRODUCTION (HISTORICAL AND LOCAL).

§ 1. *The Early Administration.*

THE Chapter II of Vol. I has given the details of the acquisition of the territory officially called 'The Panjáb and its dependencies.' The date of the cession (1846–49) will be sufficient to indicate to the reader that the greater part of the province came under British Revenue-Administration after the Settlement-system of Upper India had taken a definite shape. The Panjáb, therefore, escaped those first years of tentative revenue-arrangements—farming-systems and harsh sale laws—which were productive of such unforeseen and mischievous results in other provinces[1].

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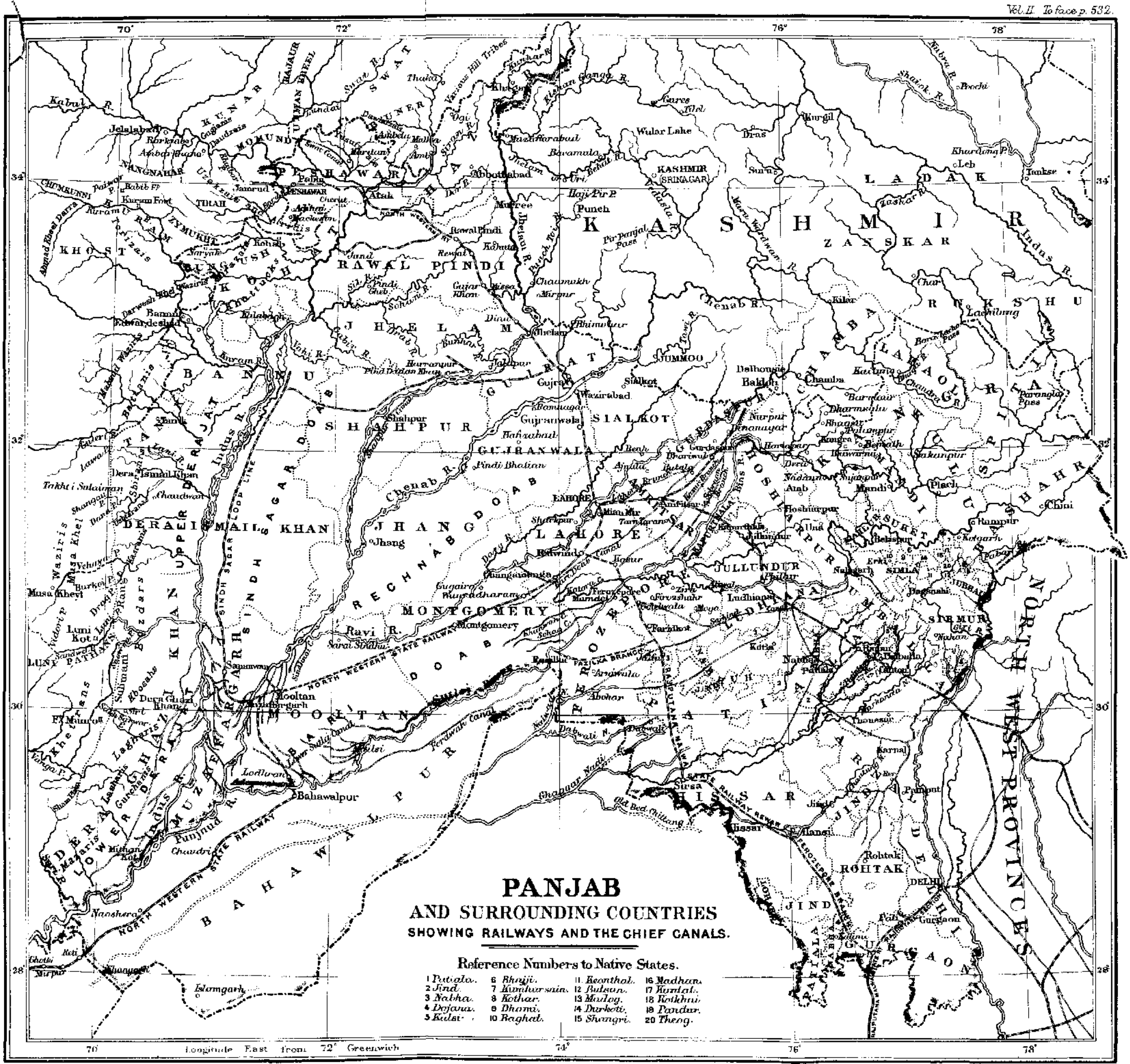
[1] The Delhi districts, which have been under the Panjáb since 1858, but became British territory in 1803, hardly form an exception; no Regular Settlements were made in them till long after the annexation; and the Settlements, when made, were under the North-Western Provinces. Some of the districts suffered from over-assessment; but that had nothing to do with the system. Some of the Panjáb districts also suffered from the application (in the absence of better information) of the Sikh standards of assessment; but it was only to a very limited extent (see *Administration Report for* 1849-50, § 266).


70°
72°
76°
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34°
32°
30°
28°
Kabul R.
Jelalabad
KUNAR
MOMUND
BAJAUR
SWAT
BUNER
PESHAWAR
Peshawar
Jamrud
Atak
Kohat
KHOST
KOHAT
BANNU
Bannu
TOCHI
Abbottabad
Murree
Rawal Pindi
RAWAL PINDI
JHELAM
Jhelam
GUJRAT
Gujrat
Wazirabad
Sialkot
SIALKOT
JUMMOO
KASHMIR
KASHMIR (SRINAGAR)
Wular Lake
Muzaffarabad
Punch
Pir Panjal Pass
LADAK
Leh
ZANSKAR
Indus R.
Chenab R.
Jhelam R.
Ravi R.
Dalhousie
Chamba
CHAMBA
LAHAUL
KANGRA
SPITI
KULU
MANDI
SUKET
SIMLA
BASHAHR
Kotgarh
Rampur
Chini
SIRMUR
Nahan
SHAHPUR
Shahpur
GUJRANWALA
Gujranwala
LAHORE
Lahore
Amritsar
AMRITSAR
GURDASPUR
Gurdaspur
HOSHIARPUR
Hoshiarpur
JULLUNDUR
Jullundur
Ludhiana
LUDHIANA
FIROZPUR
Firozpur
Ambala
UMBALA
Patiala
Nabha
Kalsia
JHANG
Jhang
MONTGOMERY
Montgomery
DERA ISMAIL KHAN
Dera Ismail Khan
DERA GHAZI KHAN
Dera Ghazi Khan
MUZAFFARGARH
Muzaffargarh
MOOLTAN
Mooltan
BAHAWALPUR
Bahawalpur
Sirsa
HISAR
Hissar
Hansi
JIND
KARNAL
Karnal
Panipat
ROHTAK
Rohtak
DELHI
GURGAON
Gurgaon
Thanesar
NORTH WEST PROVINCES
SIND SAGAR DOAB
RECHNA DOAB
BARI DOAB
JECH DOAB
NORTH WESTERN STATE RAILWAY
SIND SAGAR LOOP LINE
RAJPUTANA MALWA RAILWAY
Sutlej R.
Beas R.
Ghaggar Nadi
Western Jumna Canal
Sirhind Canal
Bari Doab Canal
Naoshera
Khanpur
Mithan Kot
Longitude East from 72° Greenwich
74°

PANJAB

AND SURROUNDING COUNTRIES

SHOWING RAILWAYS AND THE CHIEF CANALS.

Reference Numbers to Native States.

1 *Patiala.*
2 *Jind.*
3 *Nabha.*
4 *Dojana.*
5 *Kalsi.*
6 *Bhajji.*
7 *Kumharsain.*
8 *Kothar.*
9 *Dhami.*
10 *Baghat.*
11 *Keonthal.*
12 *Balsan.*
13 *Mailog.*
14 *Darkoti.*
15 *Shangri.*
16 *Madhan.*
17 *Kuniar.*
18 *Kothkai.*
19 *Pandar.*
20 *Theog.*

PART IV.—THE PANJÁB.

CHAPTER I. THE LAND-REVENUE SETTLEMENT SYSTEM.
,, II. THE LAND-TENURES.
,, III. LAND-REVENUE OFFICERS AND REVENUE BUSINESS AND PROCEDURE.

CHAPTER I.

THE LAND-REVENUE SETTLEMENT SYSTEM.

SECTION I.—INTRODUCTION (HISTORICAL AND LOCAL).

§ 1. *The Early Administration.*

THE Chapter II of Vol. I has given the details of the acquisition of the territory officially called 'The Panjáb and its dependencies.' The date of the cession (1846–49) will be sufficient to indicate to the reader that the greater part of the province came under British Revenue-Administration after the Settlement-system of Upper India had taken a definite shape. The Panjáb, therefore, escaped those first years of tentative revenue-arrangements—farming-systems and harsh sale laws—which were productive of such unforeseen and mischievous results in other provinces[1].

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[1] The Delhi districts, which have been under the Panjáb since 1858, but became British territory in 1803, hardly form an exception; no Regular Settlements were made in them till long after the annexation; and the Settlements, when made, were under the North-Western Provinces. Some of the districts suffered from over-assessment; but that had nothing to do with the system. Some of the Panjáb districts also suffered from the application (in the absence of better information) of the Sikh standards of assessment; but it was only to a very limited extent (see *Administration Report for* 1849-50, § 266).

I have also explained how the principles directed to be observed in the administration, were communicated in the Governor-General's dispatch of 31st March, 1849, under which a 'Board of Administration' was appointed. The Board, after a few years, gave place to a 'Chief Commissioner'; and ultimately (in 1859) a Lieutenant-Governor was appointed. It remains to be noted that the Panjáb was never annexed to the Bengal Presidency or formed part of it, so that the Code of Bengal Regulations was never in force. The dispatch, however, spoke of the spirit of the Regulations being followed when applicable; and, what is more important, the Board was instructed to draw up its own Rules for the various details of district control. Many of the rules (and some similar later ones) acquired the force of law under the *Indian Councils' Act*, 1861. Among the instructions issued in those early years, I cannot forbear mentioning the admirable *Manual of the Principles of Civil Law*, which was circulated in 1855. It never had the force of law, though it was familiarly called 'The Panjáb Code'; but it long served as a valuable guide to judicial officers. In revenue matters, the Regulations VII of 1822 and IX of 1833 were referred to, and their 'spirit' acted upon. The land-system adopted, was, as far as possible, that of the North-Western Provinces; and Thomason's *Directions*[1]—was the text-book, as well as the *Book Circulars* issued by the Board, and afterwards by the Financial Commissioner. The practice of giving instructions by circular still continues (as in other provinces): for there are many points of detail which are not settled by *law*, i. e. by Land-Revenue Act or the Rules made under it. The Financial Commissioner's *Circulars* have recently been consolidated up to 1890[2].

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[1] This book was held in great esteem; so much so that, in 1874, when a Revenue Manual was required, the whole of the old text was reprinted *verbatim*, though it had long since ceased to represent either the law in force, or the actual practice; the utility of the book was, in fact, almost entirely due to the matter added in brackets and to the various Appendices.

[2] This volume is quoted in the sequel as *F. C. Consol. Cir.* with the number and the page of the volume. It is divided into 'Parts,' as the North-Western Provinces and Oudh

§ 2. *Physical Features of the Province.*

Before I describe the Settlements, I may state a few facts regarding the province, which are necessary to enable us to appreciate the law. The province, as a glance at the map shows, is a fan-shaped tract, with the Himalayan hills and their outworks forming a northern boundary. The hills in Hazárá, and on the immediate border of Ráwalpindí, are British territory, but close beyond comes Kashmír, a feudatory state; then we have the Chamba State. Beyond that, again, the Kángrá and Kulu hills are British; and then comes the series of small Simla Hill States under British protection and political control.

The plains districts are divided into sections by the 'Five-waters' (or rivers) (Panj-áb), which, debouching from the hills at distant intervals, gradually unite their streams, first one, then the other, till all come together in the extreme south of the province, in the great stream of the Indus. This forms, in reality, a sixth river, as it is not the Panjáb boundary, there being 'Trans-Indus' territory included in the province. The Jamná is the eastern boundary. The whole territory is thus divided into a number of tracts between two rivers, called 'Doáb.' From the Jamná to the Sutlej is a broad plain destitute of the local features which would constitute a 'Doáb.' From the Sutlej to the Biás is the rich tract of the Hoshyárpur and Jálandhar districts, called simply 'the Doába.' Between the Biás and the Rávi (on which stands the capital, Lahore) is the 'Bárí Doáb.' From the Rávi to the Chináb is the 'Ríchnáb Doáb.' From the Chináb to the Jihlam is the 'Chajh Doáb,' and from the Jihlam to the Indus is the great 'Sindh-Ságar Doáb[1].'

Circulars are into 'Departments' dealing with different major heads of official business.

[1] It is stated that these names of the Doábs were invented in the time of the Emperor Akbar. Each name is a sort of 'telescope' or colliding of the names of the two rivers into one word; thus 'Bári' is Biás-Rávi, 'Ríchnáb' is 'Rávi-Chináb,' and 'Chajh' or (Chach) is Chináb - Jihlam (Cunningham's *Ancient Geography*: London, Trübner, 1871, p. 154).

I have retained the popular spelling for the Sutlej (Satluj) because the river has become famous from the battles of the first Sikh War, and 'Sutlej' is almost an English word.

The greater Doábs (that between the Sutlej and Biás is too small to be so affected) have certain generally similar features. In each, the level gradually (and almost imperceptibly) rises from the river towards the centre of the tract, and then falls again till the level of the next river is reached. This slight rise in elevation causes a series of important differences of soil. Along the river-bed is the moist area; first, that actually flooded and liable to the features of alluvial formations, frequent erosion of the soil, and changes of the river-course ('sailába,' 'bet,' 'kachchí'). The Panjáb rivers are peculiar, as regards their course over the plains. They have no regular *bed*; as the river leaves the last outworks of the hills, it simply falls on to a broad tract of soft alluvial soil, choosing the lowest level, as a matter of course. Each year, as the mountain snows melt, and the summer monsoon rainfall further swells the volume, the river rises rapidly and overflows its low-level or winter bed, often spreading over the country for two or three miles—more or less, according to the size of the river. The 'deep-stream' flows now here, now there; and the various secondary channels, which begin to form, as the waters fall, cut themselves out courses of constant variety. In fact, as they bring down silt, the waters continually tend to build up their bed to a level slightly above that of the valley; accordingly, when the bed overflows, the waters must flow away on this side and on that, spreading out by reason of the inclined plane over which they escape. Hence every Panjáb 'river-bed' is a considerable strip of country—a stretch of land partly occupied by sand and alluvial mud, with channels here and there, some dry, some with water in them; while the 'deep-stream' runs somewhere in the midst, or at one side of the river-area[1].

From the larger rivers, great canals, with regulating masonry head-works, are taken off. Such are the Bárídoáb (Rávi), the Chináb, and the Sirhind (Sutlej) canals. But at certain portions of the Indus, Jihlam, Rávi, and Sutlej (besides these), smaller canals, known as 'inundation canals,' are taken out; they only flow during the flood season; and, in fact, serve to utilize the excess water during the rains. But to return to the Doáb.

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[1] These changes also affect the riparian villages, sometimes depositing, sometimes cutting away considerable areas on the river frontage. In some cases the main stream takes a turn and flows *behind* a village, in front of which it formerly ran. Sometimes whole estates are washed away, and great areas of land are formed up lower down.

Beyond this flooded area, the land is still comparatively low in level, and moistened by percolation, so that wells—often mere holes in the ground—can be dug and water found at a depth of seven to twenty feet. This area is variously called the 'dhâyá,' 'bét,' or 'khádir'; it is easily cultivated, but does not give the *best* results. Beyond that, the level rises, the soil is good, and the country more healthy; wells are still freely sunk; but, in general, a masonry lining is required, and the labour of cultivation, as well as the expense of cattle to work the wells, is much greater. Wells here vary in depth from twenty-five to seventy feet, as we recede from the river banks. Below seventy feet a well cannot be worked, as cattle could not move the long rope-belt which supports the water-pots ('tind'). The 'Persian-wheel' is everywhere in use (at least north-west of the Sutlej). This higher tract is called 'bángar,' or the 'mánjhá.' Beyond that, the general level is higher still, and there we have only sparse cultivation, if any, and the bulk of the area consists of wide tracts of grass prairie[1], and open jungle of stunted, but thick-stemmed and deep-rooted trees, 'jand' (*Prosopis spicigera*) and others, valuable as yielding large supplies of wood-fuel. This tract is called the 'bár.' Leaving that, and again descending the almost imperceptible slope towards the next river, we again come to cultivated high land, and then once more find the moist belt of river-land.

In the Sindh-Ságar Doáb, the 'bár' is so extensive, that it turns to a great 'thal,' or sandy desert, in the central portion; and here there is neither cultivation nor tree-jungle.

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[1] The grass springs up during such rain as there is, and affords grazing to great herds of cattle, the milk of which yields a large and valuable supply of 'ghi'—a sort of clarified butter (butter boiled down and strained) which, in that state, keeps indefinitely, and is largely used for cooking purposes by all classes.

The Panjáb climate is generally dry. Along the Himáláya is a narrow belt, with a large rainfall (over seventy-five inches, but diminishing largely towards the north-west end); under the hills, also, the rainfall is fairly abundant. In the central districts, it is less; and in those of the south, like Dera-G͟hází-K͟hán, Multán, Muzaffargarh, Jhang, and Montgomery, it is very scanty; so that here all cultivation depends on the rivers—on their overflow, on inundation-canals, and on the use that can be made of wells in the moister soils or near the canals. Crops raised by rainfall are here hardly known, except at rare intervals; and the cultivation, generally, is so liable to fail for want of water, and is so affected by the action of the rivers, that the Government revenue is often levied by a 'fluctuating' assessment following the results of each harvest.

§ 3. *Existence of Village 'Communities.'*

In the northern, central, and south-eastern districts, villages—fully deserving to be called 'communities'—are everywhere found. But in the hills, and in the southern river-tracts, *villages*, in the proper sense of the term, hardly exist; we have merely aggregates of a few separate holdings, which have been clubbed together for revenue purposes into 'mauzas'; in reality, the management is as nearly 'raiyatwárí' as possible. The modern revenue-law, while asserting the joint-responsibility as the general rule, acknowledges that there may be cases where it should be ordered not to take effect (cf. Section 61, Act XVII of 1887).

In the Panjáb districts, as a rule, population is by no means dense, and only in a few limited areas is it over-abundant. In 1849, there was an enormous area uncultivated, which, in the last forty years, has been continually diminishing. There are, however, in the south and south-east, some large desert tracts, which, in all probability, will long remain so.

§ 4. *Present Division of the Province* (*territorially*).

The Panjáb is divided into thirty-one[1] districts—of which one (Simla) is hardly to be called a district, consisting really only of the station of Simla, with two small detached areas in the hills beyond, (Kotgarh and Kotkhái). Each district is subdivided into 'tahsíls,' usually three or four to a district. There used to be thirty-two districts (up to 1884); when the Sirsa district was abolished, the Fázilká portion being added on to Fírozpur, and the rest going to Hisár. There used also to be *ten* divisions of Commissioners; since 1884 there are *six*. The divisions of civil appellate jurisdiction, and sessions courts, do not necessarily coincide with these administrative divisions. The old Acts regarding district *boundaries* (Act VI of 1867, &c.), are no longer in force; Section 5 of the Land-Revenue Act (XVII of 1887) now does all that is required, empowering the Local Government to modify the number of tahsíls, districts, and divisions, and to alter boundaries, as occasion arises[2].

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[1]

Pesháwar Division.	1. Pesháwar. 2. Kohát. 3. Hazárá.
Deráját Division.	4. Dera Ismaíl Khán. 5. Dera Ghází Khán. 6. Bannú. 7. Muzaffargarh.
Ráwalpindí Division.	8. Ráwalpindi. 9. Jihlam. 10. Sháhpur. 11. Gujrát. 12. Siálkot. 13. Gújránwálá.
Lahore Division.	14. Lahore. 15. Amritsar. 16. Gúrdáspur. 17. Multán. 18. Montgomery. 19. Jhang.
Jálandhar Division.	20. Fírozpur. 21. Jálandhar. 22. Hoshyárpur. 23. Kángrá.
Delhi Division.	24. Lúdiána. 25. Ambála. 26. Simla. 27. Gurgáon. 28. Karnál. 29. Rohtak. 30. Hisár. 31. Delhi (Díhlí).

[2] As to the orders about transfer of territories, especially when owing to di-alluvial changes, transfer to a Native State is necessary, see *F. C's.* vol. of Consolidated Circulars, No. 60, p. 516.

§ 5. *Circumstances under which the First Settlements were made.*

When the first regular Settlements began, the forms of record and statistics for villages used in the North-Western Provinces, were adopted; and in many cases, amíns and other subordinate officials, trained to the work in those provinces, were imported, to make the field-surveys and compile records.

The Panjáb system, to the present day, is essentially a 'variety' of the North-Western Provinces Settlement 'species'; though, of course, it has its characteristic differences of detail.

§ 6. *Experience gained during the Residency Days.*

The Settlements, however, were not made entirely without any previous experience. It will be remembered that after the treaty of 1809, by which the Cis-Sutlej States and petty chiefships were taken under British protection, Ranjít Singh wisely abstained from interference, and maintained friendship with the British power; and things went well, till the death of Mahárájá Kharak Singh. After that time, about 1845, the Sikh Darbár foolishly began the work of interference beyond the Sutlej, and this resulted in the first Sikh War, and the annexation of the Sikh possessions, Cis-Sutlej (other than the territories of the protected chiefs), as well as of the districts immediately adjoining the Sutlej on the other side, which were required as a safeguard to our then frontier. A British Resident also was, by treaty, empowered to advise, and to some extent, to control, the Darbár at Lahore. Under this advice, between 1846 and 1848, considerable administrative improvements were made. Had not the unfortunate Díwán Múlraj, at Multán, been led to rebel and to bring about the murder of British officers in the city, the second war of 1848–49, might never have occurred, and the experiment of a native administration under British control, have been prolonged indefinitely. Instead, however, of resenting the Multán outrage, the Sikh chiefs and army gradually made common cause, and rebelled against the Darbár and the British authority. The second Sikh War, of 1849, which resulted, terminated in the overthrow of all opposition. After anxious deliberation, Lord Dalhousie resolved to annex the province, as the only hope for its good government, and for the safety of the rest of India.

A collection of State papers relating to the Panjáb (1847–49) was presented to Parliament as a Blue Book. From this, we gather much interesting information regarding the Sikh system, and the attempts of the British Resident to make a summary Settlement of the land-revenue on behalf of the Darbár. It was the experience thus gained that enabled the first years of Panjáb administration as a British province, to be conducted as successfully as they were.

§ 7. *Sikh Organization of the Land-Revenue.*

It will be remembered that when the confederate 'misls' or bodies of Sikh soldiery, conquered the country, the different chiefs portioned out the whole into *taluqas*, or sections, under each chief. But afterwards, the predominance of Mahárájá Ranjít Singh resulted in the organization of the Panjáb, much as the old Hindu State (described in my Introductory Chapter) was organized, and much as described in Colonel Tod's *Rájasthán*. The most important part of the territory, held direct by the Mahárájá, formed the 'k͟hálsa.' The outlying tracts, the 'iláqas, taluqas, or districts, held by the Muhammadan chiefs on the frontier, or by the Sikh chiefs in other parts, now became subordinate chiefs' estates, the holders being bound to the 'feudal' service of the Mahárájá, and to appear with the prescribed force of horse or foot when called upon.

When the Sikh government was strong, the *k͟hálsa* territory was portioned out into large districts, with governors (called Názim [1]) over each; and over smaller divisions of territory—usually one or more of the old 'taluqas'—a kárdár or district officer was appointed, with minor officials (chaudharí) over 'tappas,' or groups of villages, under him. Ranjít Singh had arranged fixed money-assessments for every village, at least in some districts[1]; but, as he grew old, the regular system was allowed to fall into abeyance; and for many years before the annexation, the whole province (up to the Sutlej) had been made into seven districts—Kashmír (including Hazárá), Peshâwar, Wazírábád, Multán, Pind-Dádan-Khán (including the Salt Mines), and Kángrá including part of Jálandhar). The governors of these did what they pleased—farming the revenues to 'ijáradárs,' or contractors, or to the local kárdár, getting as much (and paying as little to the Darbár treasury) as they could. A return given in a letter from the British Resident, shows the state of revenue-management before annexation:—

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[1] The Sikh government readily adopted Muhammadan official terms —Díwán, Názim, 'iláqa, jágír, &c., as it adopted Persian for its legal and official language.

		R. (in round numbers)
8	Taluqas farmed with kárdárs for a fixed sum (they of course getting as much more as they could) .	25,50,000
8	Taluqas; villages farmed for fixed sums with headmen	18,24,000
43	Taluqas held direct (in revenue language 'ámáni' or 'khám') under State Officers	89,45,000

§ 8. *British Attempts at Reform before the Annexation.*

The Resident describes in this letter the absence of all check on the local officials, and how both the people and the Government alike were pillaged; and he expresses his belief that a business-like, though summary, Settlement, even if it reduced the land-revenue demand by 20 per cent. all round, would, in the end, be more profitable to the State, and would give great relief to the people[2].

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[1] Resident's letter to Governor General, dated 25th September, 1847. In the Parliamentary Blue Book above alluded to.

[2] This is the text of the letter (*Parl. Blue Book*, p. 9).

From Resident, to the Secretary to Governor-General, dated 10th September, 1847:—

'The completion of a Settlement, by which the amount demandable from every village shall be defined, with punctual returns of the collections, will soon work a change. At present, every kárdár does pretty much as he pleases; he is virtually a large renter, not a mere collector of the land-tax. His principle is to

Accordingly, the work of making simple cash-Settlements, on the basis of former grain-collections, fairly valued, and of cash-assessments (where these were in use), reduced to fair and reasonable amounts, was undertaken. The Settlement was made on the spot after local inspection, and in consultation with the people and the leading men (but without any survey or attempt to value the land). The work was rapidly carried out in Hazárá, the four Doábs, and part of Peshâwar. The other districts were in progress when the affair of Multán occurred and the war broke out which resulted in annexation [1].

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realize as much, and pay as little, as possible; there is no exact record of the Government demand in any case, and in many instances, it varying with each person, the calling him to account is a mere mockery. . . . . It is no doubt true that the Darbár have returns of what is considered the revenue of every rabí of a large portion of the country villages, and in settling with the kárdárs, these documents are referred to, and the Government demand against them is limited to the revenue thus exhibited. But the kárdár does not thus act towards the proprietors of the soil; from them he takes as much as he can get. In a bad year he will not collect less than what he pays the Government; in a good year a great deal more. In this way Pesháwar had a Settlement, yet . . . . it is in the hands of izáradárs (holders of farms or leases) who collect as they please. The Trans-Sutlej territory also had a nominal revenue, yet the village records show that from 25 to 30 per cent. in addition was taken, and such is the rule throughout the country. . . .'

And the *Administration Report* for 1849-50 says (§ 233):—

'As a rule the (Sikh) public demand may be said to have varied from two-fifths to one-third of the gross produce. This proportion prevailed in all the districts which the Sikhs had fully conquered, and which were fairly cultivated, and may be said to have been in force in all their Cis-Indus possessions, except the province governed by Díwán Múlráj (the southern districts). Beyond the Indus, owing to the distance from control, the less patient character of the population, the insecurity of property, and the scarcity of population, the revenue system pressed more lightly on the people. For the last reason also, the rates . . . . in Multán were equally light. In all these tracts (excepting the peculiarly rich lands round Pesháwar) the Government share never exceeded one-third, and usually averaged one-fourth or one-fifth, and fell even to one-eighth, of the crop. For certain crops—cotton, indigo, sugarcane, tobacco, and vegetables—money-rates were always taken. When the Government demand consisted of a share of the crop, whether by actual division or by appraisement (of the standing crop) the officials sometimes disposed of the grain themselves, but more commonly obliged the agriculturists to pay for it in cash, at prices rather higher than those quoted in the ordinary market.'

[1] Those who desire to learn more about the early revenue arrangements will do well to consult the judiciously selected extracts given at p. 611 et seq. of vol. ii. of the *Panjáb Replies to the Famine Commission* (1878-79).

§ 9. *First Settlements after Annexation.*

After 1849, some 'summary' Settlements[1] had to be made; but 'regular' Settlements were soon taken in hand. All these Settlements have now expired (they were made for periods varying from twenty to thirty years). Many of them have been revised, and a second revision is now being, or has recently been, made[2].

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[1] See vol. i. Chap. V. p. 304.

[2] The first Settlements of the DELHI, GURGÁON and KARNÁL districts were made under the North-Western Provinces Government. They expired in or before 1872, and revisions have since been carried out. [The valuable reports on Karnál (Ibbetson), Rohtak (Fanshawe), Gurgáoń (Channing), of which I have made great use in the Chapter on Tenures, belong to this period of revision. The dates are general; I ignore the case of detached tahsíls and parganas which, in few instances, had periods of lease somewhat different, and were, therefore, settled earlier or later than the general or district dates given.] ROHTAK was settled in 1873-9. HISÁR was settled for twenty years in 1863 and is now under revision. The Sirsa re-Settlement was finished in 1882; and this district has been abolished and divided between Hisár and Fírozpur. The first AMBÁLA Settlements had been undertaken piecemeal, as the district was not completely formed at one date. The southern tahsils were settled between 1847 and 1853 (Wynyard's Settlement); the northern in 1850-55, in which latter year the district Settlement, as a whole, was sanctioned. The Thanésar portion was settled in 1862; finally, the Settlements were so sanctioned that the periods of the several portions should expire together in 1880. The re-Settlement has just been completed. *Lúdiána* was re-settled in 1879-83. *Fírozpur* had been dealt with piecemeal, the Settlement, as a whole, being sanctioned for thirty years in 1855. But the tract called Mamdot, held in jágir by the Nawáb of Mamdot, was settled in 1868-73, and the Mukatsar Tahsíl, which was settled in 1855, for ten years, was re-settled 1865-73. The whole of Fírozpur is now under revision (1889). The *Jálandhar* division (three districts) had all been settled about the same time; the revision of the *Kángrá* assessments is now proceeding; the record-of-rights having been revised in 1865-69. *Hoshyárpur* was re-settled in 1879-84; *Jálandhar* in 1880-85.

The *Lahore* district had been settled in 1850, and again in 1865-68; this Settlement has fallen in, and is now being revised (1889). *Amritsar*, *Siálkot*, and *Gúrdáspur* are also now under revision; so are *Gujrát* and *Gújránwála*. *Ráwalpindi* (first settled in 1856) has just been re-settled. Jihlam was re-settled, for the second time, in 1883. The *Sháhpur* Settlement of 1866 has now expired, and the district is under revision. The Multán districts (*Multán*, *Muzaffargarh*, *Montgomery*, and *Jhang*) have all been re-settled of late years, and so the districts of the Pesháwar and Deráját Divisions. *Hazárá* was settled 1868-74; *Kohát* in 1875-80, as nearly as can be stated. *Pesháwar* in 1869-75; *Dera Gházi Khán*, 1869-74; *Dera Ismáil Khán*, 1872-79; *Bannú*, 1872-78.

SECTION II.—THE OLDER SETTLEMENTS.

§ 1. *Three Periods of Settlement-Law.*

The history of our Settlement procedure, as regulated by law, falls into three periods.

(1) From annexation to 1871, during which 'the spirit' of the Regulations (VII of 1822, IX of 1833, &c.) was followed, supplemented by *Circular* orders of Government, some of which had validity as law, under the *Indian Councils' Act*, 1861; others had the ordinary force of executive orders.

(2) For 1871–87, a Land-Revenue Act (XXXIII of 1871) was in force; the Tenant Act (XXVIII of 1868) was also in force, having been enacted two years earlier. The Land-Revenue Act was supplemented by published Rules having the force of law under the Act.

(3) In 1887, a revision of the Land-Revenue and Tenancy Acts was completed, the law now being Act XVII of 1887 (with Rules issued under its authority), for Land-Revenue administration, and the Tenant Law being Act XVI of the same year. It is supplemented by 'Rules' having the force of law; and there are official (executive) orders in the Financial Commissioners' *Circulars*, as above stated.

§ 2. *The Early Settlement Procedure—Features of it that are still of importance.*

It is now of no practical importance to describe all the details of the earlier methods of Settlement. Indeed, the student who has read Chap. V. Sec. IX of Vol. I, or the Chapter in Vol. II on the North-Western Provinces, knows already as much as he need know about it.

The surveys at first carried out (where such work was undertaken) were by the old method of two independent surveys. The 'Revenue Survey' gave the outer boundaries of the villages only[1]. The 'Settlement Survey,' made by amíns and native surveyors, under the direction of the Settlement Officers, prepared the detailed field-maps, and thus got the village-boundaries over again, the Revenue Survey maps being used as a check.

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[1] And also produced the 'Revenue Survey' District maps (one inch or two inches = 1 mile) showing district local features, roads, canals, &c., and also the area as divided out into 'villages' and Government 'Rakh' or waste land.

§ 3. *Estate Boundaries.*

At the first Settlements there was a great deal of business connected with the determination of village boundaries, where they were disputed or undefined. 'Thákbast misls,' or files of papers showing how the lines were laid down, and how disputes had been settled, formed a not unimportant part of the earlier Settlement records. All this work having been once done, it is not likely that it will ever have to be gone over again.

But one of the features of this boundary-settlement, which is of continuing importance, was the determination of what portion of the large area of circumjacent waste should be allowed to the villages as their 'shámilát-dih,'—the common property of the village-body.

SECTION III.—WASTE LANDS, AS ALLOTTED AT SETTLEMENT.—MODERN COLONIZATION.

§ 1. *Rule adopted at Settlement.*

The result of the physical conformation of the province, already described, as well as of the historical conditions, was, that there was a very large area of waste-land, the right to which had to be considered. The area for Settlement, in fact, consisted in several districts, of a great waste with villages scattered over it. This condition was, at all events, sufficiently common to cause a rule to be promulgated (by *Circular* order) on the subject of how far the waste was to be considered as belonging to the different villages. The rule was, that each estate was to have a certain area given over to it absolutely. Where the waste was of small extent, the whole of the adjoining area was included in the village-boundary as a matter of course;

where it was extensive, each village received twice, and, in some cases, thrice, the cultivated area. The rest of the waste then formed the 'rakh' of the Panjáb—that is to say, Government waste available for forest or for any other public purpose. Much of this area has since been granted or leased for cultivation, or colonized. Some parts have been constituted State forests, and other parts 'district rakh'—useful for grazing and supply of fuel to the villages around, who pay 'tirní, or grazing-dues, for the right of grazing cattle in the area.

This allotment-procedure was not, however, uniformly carried out; there were some districts in which the older Settlements left the matter very much in doubt[1].

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[1] E. g., the Muzaffargarh district, where at first *all* the waste was included as belonging to one village or the other. It was (somewhat arbitrarily) taken back again about 1860, but without any real demarcation on the ground showing the resumed portions. The matter was finally dealt with, and has been set right, at the last Settlement, with the consent of all parties.

In Ráwalpindí also the waste was not separated from the villages in the hill tahsils of Murree (Marí) and Kahútá; and the work of separation was completed a few years ago under the Forest Act.

In the Kángra district (except in the Kulu subdivision) at the first (Barnes') Settlement, *all* the waste was divided out among the villages, but the Government retained a right to the trees, and consequently to the user of the land as long as any trees were on it; and rules were also made for the protection and reproduction of trees.

The following extract (paras. 24, 25, and 26) from the remarks of the Financial Commissioner, Panjáb, on Mr. Lyall's *Kángra Report* (1865–72) are of importance, as showing how the waste rights grew up:—

'When we look to Mr. Barnes' *S. R.* for an account of the mode in which the waste was treated at the Regular Settlement, we find considerable indistinctness:—

'1. Mr. Barnes says that "extensive wastes and forests are generally considered the undivided property of Government." From this it would appear as if he reckoned small wastes to belong to the landholders.

'2. He treated the holders of land within the circuits, as coparcenary bodies, and imposed upon them a joint responsibility to which they were strangers; and to balance this, gave the community the right to collect certain items of miscellaneous rent, the produce of the waste.

'3. In the village administration-papers of the Regular Settlement the waste is usually termed "common land of the village" (shámilát dih); sometimes this definition is omitted, and then the ownership of the waste is left to be inferred from the interests recorded in it.

'4. The question of demarcating large tracts of forest for Government was discussed during the operations of Mr. Barnes' Settlement, but abandoned apparently from the idea that a forest establishment would be expensive, and that the expense might be obviated by employing the *zamindárs* in the work of conservancy; and ultimately every particle of waste, from the tops of mountains to the river-beds, was included in the boundaries of the circuits [villages as created at Settlement].

Subsequent proceedings had therefore to be taken, and, so far as the rights of village estates are concerned, all

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'To what extent Mr. Barnes intended to convey proprietary right in the waste to the landholders is even now uncertain. The wastes were demarcated in village boundaries and entered in the administration-papers as "shámilát dih" (village joint or common land), but at the same time the right of Government to all trees growing on common land is secured, and the grazing fees payable by the "gaddis" (shepherd tribes) were claimed for Government. Again, the expression that the "extensive wastes and forests are generally considered the undivided property of Government," seemed to show that Mr. Barnes did not intend entirely to abandon these wastes. Further, in two subsequent letters written in 1860, Mr. Barnes distinctly combated the notion of his having surrendered the proprietary right of Government, asserting that the administration papers were compiled by the people themselves, and that custom was against their claim to the proprietary right. Mr. Lyall uses a somewhat similar argument when he says that the entry of "shámilát dih" against the wastes, was made, as a matter of course, by the amins, who, trained in the North-Western Provinces Settlements, had recourse to the procedure there learnt, by which every plot of land, not being private property, came under the heading of "common."

'The question, however, came up for discussion in 1852-53, in connection with the demand for land for forming tea-plantations. Mr. Lyall shows that on several occasions the local officers tried to re-assert the paramount claim of Government to the waste, but the Chief Commissioner refused to acknowledge the principle, and ruled that the waste lands must be held to be the property of the villages, and that no lands could be appropriated without the consent of the land-owners. This decision was finally affirmed by Government in 1863, and Major Lake, then Commissioner of the Division, recommended that the boundaries of hamlets within "mauzas" should be defined in the rest of Kángra proper, as they had been at first Settlement in a great part of Tahsil Nadáun. The position thus taken up, which must be held to represent the views of Government when Mr. Lyall began his Settlement, was that the Government has reserved in the waste lands only the right to certain forest timber and to certain grazing fees, and had surrendered to the *zamindárs* the right in the soil, together with the miscellaneous dues, composed of fees levied from Gújar herdsmen, quarriers, iron-smelters, netters of falcons, owners of water-mills, &c."

Though all waste in the Panjáb that has been dealt with at Settlement, and has been cut off from villages, and in which rights have not specially been recorded, is exclusively Government property and available for forest purposes or otherwise, there has been a tendency to leave it open for the *convenience* of the neighbouring villages, irrespective of their actual *right*. The result of our settled and peaceful Government has been, that the land originally made over to the villages as waste has become valuable, and it has, in many instances, been all brought under cultivation sometimes without thought as to provision for grazing. In consequence of this the people have no waste left whereon to graze or cut firewood, and they naturally clamour to get their wants supplied in the neighbouring Government waste. Whenever, then, it is desired to enclose this for planting or other purposes, there is a loud outcry; and this may result some day in serious loss. A difficulty of this sort was experienced in the 'Rakhs' of the Salt Range (Jihlam District). Here the waste was marked off separately from the villages, as it would have been anywhere else, only it was understood questions are now at an end[1]. In a few districts—e.g. in Ambála and Lúdiána—there is no Government waste, to speak of. Whenever there is any peculiarity, as in the wooded districts of Ráwalpindí, Kángra, or the Salt Range, full notice of the subject is sure to be found in the later *Settlement Reports*.

§ 2. *The Law of 1887 as to Waste Lands.*

It may be well, before concluding this notice of waste allotments, to observe how the existing law has dealt with the subject. All that is needed is what is provided in Section 42 of the Land-Revenue Act XVII of 1887[2].

Act XVII of 1887, sec. 42. In the case of waste adjoining an estate, if the record-of-rights of the estate was completed before 18th November, 1871, and does not specifically say that the waste belongs to the estate, the presumption is that it belongs to Government. And in the records-of-rights after that date, where it is not specifically said that the waste belongs to Government, it is presumed to belong to the estate: the presumption may be rebutted on certain grounds stated in subsection (3) of Section 42.

Sec. 60. The Act also continues the provision about 'excess waste,' which has usually found place in Revenue Acts (cf. Section 87, Act XIX of 1873, and p. 37). Even if the waste

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that the tracts so marked off were rather taken under care for the general benefit, and to prevent the different tribes disputing about them, than to become the property of Government or liable to any strict control. A forest-Settlement has accordingly revised these arrangements and allotted a certain portion only to strict conservation. Meanwhile, there is in the Panjáb Laws Act (IV of 1872, section 48) an excellent provision which enables Government to make rules regulating the use of pasturage and other products of Government waste generally, and prohibiting any user that is not in accordance with such rules. This provision might be made use of, pending the introduction of a complete forest-Settlement (under the Forest Law) or other final disposal of the lands.

[1] I do not of course allude to questions as to forest organization and the rights of user which may exist in waste *not* included within the bounds of villages. Unfortunately several questions of the kind await solution in the Panjáb.

[2] The present Act came into force on 1st November, 1887 (notification No. 727, *Panjáb Gazette*, of 3rd November, 1887, Part I, p. 578). It extends to the whole province subject to any special provisions in the Regulations under 33 Victoria, cap. III (in districts for which such Regulations have been made, e.g. Hazárá and) unless such provisions are specifically altered by the Act.

has been granted to an estate, it may be in excess of requirements, and then a portion may be marked off and separately assessed. The Settlement must, however, be offered to the holders of the original estate, and only, if they refuse it, to others; in that case, an allowance of 10 per cent. as a *maximum*, and 5 per cent. as a *minimum*, of the net income realized by Government, is given to the original estate-owners. No Civil Court has jurisdiction to hear any suit regarding the 'formation of an estate' out of waste land. Sec. 158, xii.

§ 3. *Improvement and Colonization of Waste.*

The reader will readily understand that, even after the allotment just spoken of, there are districts in which great tracts of land still remain for disposal by the State; and these are often such as are not in demand, because 'baráni' cultivation—depending on rainfall, is impossible, and the land is so near the 'bár' that wells cannot profitably be sunk. Yet the soil is good. Of late years, the Chináb Canal has made possible the cultivation of a large tract of this kind in the Ríchnáb Doáb (Gújránwála and Jhang districts), and the recently-constructed Sidhnái Canal (from the Ráví) has done the same for the northern part of the Multán district; and so with the Pára and Lower Soh&aacute;g Canals (extensions of the Upper Sutlej Canal) in the Montgomery district.

It has now become a recognized part of land-revenue administration to manage, on a regular system, the allotment and colonization of these new canal lands. This is over and above the ordinary system of disposing, by lease, of waste lands available in the districts generally.

§ 4. *Ordinary Waste-Land Rules.*

Regarding this latter subject, I need only mention that the rules on which (ordinary) waste-lands are disposed of, are those of 1885, which must be consulted for details.

The principles on which the rules are framed are;—that the Government, in the first instance, leases, and does not sell, the land; it charges a low rate of *land-revenue* and also takes a *rent* (or málikána[1]), which amounts to one-fourth of the revenue. No lease is allowed without the sanction of Government, except in eight districts (Montgomery, Jhang, Multán, Sháhpur, the two Deraját districts, Muzaffargarh and Pannú), and even there, leases of over 3000 acres require sanction; and so if the lessee proposes to make a canal, or if Government is likely to make one in the neighbourhood. During the currency of the lease, the 'málikána' may be redeemed or compounded for, on payment of twenty-five years' dues. When this is done, the proprietary title to the land is acquired, and the purchaser will have in future only to pay (like any other proprietor) the assessed land-revenue on his estate.

§ 5. *Colonization of Canal Lands.*

I may briefly sketch the special system adopted in granting out land irrigable from the new canals.

It will be observed that here the conditions are altered. Instead of the *lessee* taking up barren land and making it valuable, it is Government who has expended money to give value to the land.

It is an object to encourage colonization by good agricultural castes, especially from the over-populated sub-Himalayan districts.

It is contemplated that there will be available land:—

About 34,000 acres on the Sidhnái Canal.
,, 180,000 ,, Sohág and Pára.
,, 423,000 ,, in the Sháhpur district (from the Jihlam River.)

And there is the large area from the new Chináb Canal, which I cannot state. It is estimated that about 55 per cent. may be occupied by small holdings, 27 per cent. by holdings from 100 to 500 acres, and 13 per cent. by larger holdings. An 'entrance fee' will be charged in some cases—e. g. on the Chináb Canal; no fee will be taken for small lots, but on larger holdings the charge will be:—

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[1] The student will remember that, in many cases, especially Bengal, the word málikána was used to denote an allowance made to an owner (málik) who, owing to one cause or another, had *ceased* to be in managing possession of the land or estate. In North India the term is commonly used (and quite logically) to indicate the owner's profit or owner's share—that which is paid over and above the State revenue, in acknowledgment of the owner's right of property. And so also in the Panjáb 'málikána' is used to mean rent where that rent is the revenue *plus* some addition, and is not a fixed lump sum, in which latter case rent is called 'chukotá' (incorrectly chakota) or 'lágán.'

100-500 acres = 8 Rs. per acre.
300-500 ,, = 12 ,,
Above 500 ,, = 20 ,,

There will then be the revenue *plus* a small rent to pay annually. The details vary according to the locality; but, as an example, the rules for the Sidhnái Canal may be stated. In the case of this canal, the main branches ('rájbahá') irrigate from 6000 to 34,000 acres. From the branches, channels are led off, capable of irrigating the land for one to two miles on either side; thus giving irrigated blocks of about 2500 acres each, which area forms a convenient-sized colonist 'village.' This area is divided into square blocks, giving, roughly, 22·5 acres each, the side of the square being 180 '*kadam*[1].' Here the plan is to encourage small holdings of proprietary cultivators working their own land. Each grant of ninety acres will contain four such blocks, and this is considered a suitable size for a peasant's property—not too small for use, when the inevitable subdivision (consequent on the law of inheritance) comes to pass. On each canal, arrangements will be made for such tracts of grazing reserve and forest plantation as may be needed[2]. It may be mentioned in connection with this colonization scheme, that land-revenue is levied by acreage-rates applied to the crops successfully gathered at each harvest. The canals are often dependent on the river-floods, though the particular canal that I have been speaking of, is furnished with a curious and beautiful arrangement, called a 'needle-weir,' which secures the water-supply to some extent. In an ordinary inundation canal, if the floods fail, the crops are not watered, and the revenue-rate is not levied. The revenue is taken on *acres*, not on calculated amounts of produce; but the full raté is not levied, and a *remission* granted, for deficiency and partial failure of crop on the acreage chargeable. There is a rate for the rabí', a rate for the autumn harvest, and a rate for land (which may be, though not to any extent) cultivated without aid from the canal. A 'village officers' cess' (for patwárís, headmen, &c.) is also levied, at four annas per rupee of revenue. After five years, the holder can acquire the proprietary-right by paying three rupees an acre, or other low rate that may be fixed. Besides the revenue, a rent of about one rupee per ten acres is charged.

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[1] The 'kadam' or 'karm' is in universal use and represents the pace made by the movement of both feet; it is 66 inches, or 5½ feet long, as a general standard for measurement purposes, but varies slightly in different localities. The land-measurement usual in the Panjáb, is described further on.

[2] *Panjáb Government to Financial Commissioner*, No. 746, dated 27th October, 1885).

§ 6. *Service Grants of Waste.*

Besides the rules which enable anyone to apply for waste land on the principles stated in §§ 4 and 5, it has been the practice to grant tracts of waste land (on which the revenue and rent charges may or may not be remitted), as rewards for military or political services. This practice has been regulated by a Resolution of the Government of India (1st December, 1888), which lays down that a fixed number of grants may be given in each year, or not more than that number. Five hundred acres is to be the maximum area of each grant, and ordinarily such lesser area as may suffice. Canal rates and cesses will be charged always; but, to enable the cultivation to be started without burden to the grantee, the holding will be revenue-free for two years; then for three years a light assessment (*plus* a small rent or *málikána* charge) will be levied, and finally, the full assessment. The grant will remain a 'leasehold' for ten years, after which, if the grant has been made proper use of, and cultivation duly established, the proprietary-title will be conferred. In special cases, the Government may remit the assessment, and then it will be a 'mu'áfí' grant or a 'jágír' according to circumstances.

SECTION IV.—MODERN PROCEDURE OF SETTLEMENT.

§ 1. *Use of the term 'Settlement.'*

We may now turn to the procedure for making a Settlement of land-revenue under the modern system (1887).

I shall still continue to speak, for the sake of convenience, of the 'Settlement' and of the 'Settlement Officer,' but these are no longer legal terms. The Land-Revenue Act (quite logically) treats the 'Settlement Officer' only as a Revenue Officer, who is charged with making a record-of-rights, or a general assessment, or both, as the case may be. And, especially under the modern policy of re-Settlements, this is desirable, because really there will be (in time) no special 'Settlement Officer' who takes charge, as it were, of the district during its period of 'Settlement.' Settlement work will be (more and more) done by the ordinary staff, aided by such extra hands as might be put on at any time, or for any purpose, to strengthen the existing establishments temporarily. The Act contains no provisions for special powers to 'Settlement Officers,' as such, nor mention of any officer called by that name.

It recognizes two processes, which, in fact, make up the work of Settlement usually so-called; they are (I) the PREPARATION (or REVISION) OF A RECORD-OF-RIGHTS: this consists in making a series of formally attested records and maps, showing the persons liable to pay the revenue, as well as the rights of all classes interested in the soil, as they existed on a given date. It consists further in maintaining an *annual record* in the same form only continually corrected so as to represent the facts as they are for the time being. (II) There is the GENERAL ASSESSMENT of a district, tract, or local area (as may be ordered). For the carrying out of these operations, there is the district staff of patwárís, with their supervising kánúngos; but at present special assistance, both in the way of Settlement Officers and subordinate staff, are required.

§ 2. *Settlement Staff.*

Accordingly, five bodies of extra revenue-establishment (for Settlement work) are kept up; and where revisions of assessment or new record work (or both) are sanctioned, the work is arranged in such order that the establishment can proceed from one set of districts to another, and so be continuously utilized.

The additional Settlement establishment consists of—

(1) For each tahsíl, such additional Náib-Tahsíldárs as may be available[1], and a Supervisor (kánúngo) to every six patwárís;

(2) a Revenue Officer for Settlement work, with an Assistant or Extra Assistant, as the case may be, for the whole district (usually about four tahsíls).

When a special officer is not appointed, the work of Settlement is carried out by the Collector, aided either by an Assistant entirely under his control, or by a special Assistant, vested with powers of a Collector[2], who is generally subordinate, like any other Assistant vested with such powers. The Commissioner is charged with general supervision[3].

§ 3. *Demarcation and Survey.*

Act XVII of 1887, sec. 32.

Let us now suppose that the Local Government has issued a notification directing a 'Record-of-Rights' to be prepared. I will assume that a re-survey is required. Of course before rights can be recorded, the fields must all be correctly measured and described and mapped, after the necessary boundary-marks have been restored or put up, and all boundary-disputes settled. The revisions now going on involve, in some cases, such a re-survey; for it is to be remembered that the Panjáb has only been forty years under British rule, and it is hardly to be expected that *all* the earlier surveys will be so perfect that no further work in this branch is needed.

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[1] The title 'Superintendent' is not now kept up. Formerly it meant a Tahsildár or deputy-Tahsildár trained in Settlement duty; and it was usual to depute four such officers to each staff; but it is now the practice to let the work be done by the permanent Tahsildár, and to give him additional deputies to aid in the *ordinary* work of the Tahsil.

[2] See *F. C. Consol. Cir.* No. 19.

[3] See § 26, *F. C. Consol. Cir.* No. 30.

It must first be mentioned that the Act empowers the
Financial Commissioner to make rules as to the manner Sec. 100.
in which estates are to be demarcated and boundary-marks erected.

There is a further power to make rules regarding the
survey of land in connection with the preparation of a Sec. 46.
record-of-rights. These we shall notice in due course. As long as the survey is done by the revenue officers and the village staff (patwárís and kánúngos), no special announcement of *survey* is required. But under the present practice, the aid of a professional party of the Survey Department is involved. The plan of a wholly professional 'Cadastral' survey[1], adopted in the North-Western Provinces, has not been applied to the Panjáb. Nor is it likely to be required at any future time. The patwárís and supervisors have been trained; their work is generally excellent; and when based on the accurate *data* furnished by professional agency, it answers every purpose, and is the most economical. It will thus be seen that there is a professional part of the work and a Settlement part. But here the resemblance to the old system ceases. The professional assistance is made use of, not, as in old times, to make an independent boundary-survey, which was only used as a check on the patwárís' (or Settlement) survey, but to furnish a number of *points*, base-lines, and other *data*, from which the patwárí-surveyors are able to proceed with accuracy to measure and plot the fields, and supply other details[2].

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[1] This term is not strictly used. Properly, every survey, to accompany and illustrate *an exact register of properties and holdings* is 'cadastral,' and in that sense our village surveys have more or less of this character; but in popular use 'cadastral' has got to mean an accurate, professional, survey of village estates.

[2] I cannot go into detail on the subject of the survey, but I may state that the professional survey furnishes, not *skeleton maps, but the data from which village maps are plotted*, stated in a form in which they can be utilized by patwári surveyors.

Sec. 107. Sec. 104.

When such professional or exterior agency comes to work in a district, Section 107 provides for a special notification being issued, so that the officers may, for the time, have *the powers conferred on revenue officers by Section* 104.

§ 4. *Legal Provisions.*

Secs. 102-3.

These necessary powers are (1) to enter on and survey land (without fear of being called a trespasser); (2) to erect marks and determine boundaries. The cost of erecting such marks is borne by the persons interested in the land for the indication of the limits of which the marks are required. The whole Chapter VIII will be read for information as to the apportionment of costs, the duty of providing chainmen and flagmen for the survey, and other matters of detail.

Part II. chap. XI.

As to the demarcation of boundaries, the 'Rules'[1] provide that at every angle on the boundary between *two* estates (and at other necessary points) pillars of mud or stone, not less than three feet high, shall be erected; and that at every point where the boundary of *more* than two estates meet, a (masonry) 'tri-junction pillar' shall be erected (this pillar is called 'si-haddí' or 'trí-haddí'). The form and dimensions of pillars are given.

If there is any dispute as to where the boundary-line ought to be, the survey will go by the existing boundaries, and by those of the last records, leaving aggrieved parties to sue in Court, or to arbitrate under the Act[2]. The demarcation being done, the village-maps are made.

The position of every tri-junction pillar on a village-boundary with reference to a central point in the district is calculated and stated in the terms of the universal theorem. In large villages other points are also defined; and in every village a base-line line (true N. and S., or E. and W.) is laid down and marked by two masonry pillars.

[1] By 'Rules' (throughout these Chapters) I refer to the Rules made under the Act, as the various sections allow. The Rules were published in a series of notifications in the *Gazette Extraordinary* of March 1st, 1888. The rules were drawn up in 'Parts,' and the Chapters of each Part are in a separate numerical series.

[2] In practice there is some difficulty in distinguishing between cases where it is really a *boundary-dispute*, i. e. admitting the right on either side, whether the line between the two should be exactly here or there, and those where though the aggrieved person states

§ 5. *The Field-Map and Index.*

The rules direct that the map is to be made in the same way as prescribed for the annual maps. Part II ch. III, 52.

The village-map is called (as usual) the SHAJRÁ. *Pari passu* with the map, is made a field-book or Index to the fields or 'survey numbers,' showing the area and measurements, soil and crop; and a list of the holdings of fields grouped under the name of their holder is added. (See p. 565). Part I, ch. VII A, 67–74.

In the map, every field bears its consecutive or serial number marked in red ink[1]. The Rules give a definition of a field, or as it is officially called, a 'survey number.' Rule 67. It does not, of course, follow that every plot of land which happens to be surrounded by a ridge (as is usual with cultivated lands, to retain water) is given a separate number in the *shajrá*. Ordinarily, a parcel of land, lying in one spot, in the occupation of one holder or several joint-holders under one title, is measured as a separate number; but large areas may be broken up into convenient fields.

The rules give a clear account of how the process of surveying a village is carried out. Rule 69-74. This will be better described when we come to enumerate the documents which form the record.

It should be remarked that the *sites of villages* and towns, on which land-revenue is not levied, are excluded from the Act XVII of 1887, sec. 4.

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his claim in the form that 'his boundary has been broken' (hadshikani) he really means that he claims a title to so many additional acres to what he has in possession. Such claims frequently arise when a man finds on the new measurement, that his acreage is less than hitherto recorded or understood; he tries to attribute the deficit (not to its true cause but) to some encroachment of his neighbour's. Where, under the guise of a boundary-question, a man really claims a certain area as his, the case is clearly one for a court of law on a plaint for title and possession; it is not a boundary-dispute properly so-called.

Section 101 contains a very useful provision enabling the revenue-officer to '*define the limits*' of any estate or any holding; if he does so (subject to Revenue appeal), the Civil Court has no jurisdiction (Section 158) to interfere.

[1] The rules do not now (like the old rules) give instructions about the scale of maps; these are points for a surveying-manual. The village maps are generally on the scale of 16 inches to the mile (1 inch = 330 feet, or as near to that as local measures may allow). Where the subdivision of land is excessive, portions may be shown on a still larger scale, and annexed to the general village-map (see *Financial Commissioner's Circular*, No. 66 of 1886).

maps and records; and the Revenue Officer is empowered to *define* the limits of the village-site or town-site, which is so excluded. A dotted line is drawn in the map showing the exact shape and size of the place. (See *Financial Commissioner's Circular*, No. 12 of 1890.) This is agreeable to the old process by which the Settlement Officer used to draw a line (known as the 'lál lakhír' or line in red ink) which showed where the land was outside the sphere of the Settlement. This is important as it affects jurisdiction. Within such excluded area, the Revenue Act does not interfere with the action of the Civil Courts.

§ 6. *Land-Measures used in the Panjáb.*

The land-measures used in revenue-work are the local measures and not the English acre[1]. These measures are the 'bíghá' and the 'ghumáo' and 'kanál.' For imperial returns, in which acre-measures are required, the conversion is effected by simple rules. These local land-measures vary from district to district; but the application of them is not so difficult, for, fortunately, there is a generally-accepted unit of length which differs only very slightly in certain localities; and the area-measure is, naturally, a square of this unit.

The unit of length is the 'kadam' (also called 'karú') and ten kadams make a chain. Then the area-measures follow naturally. A table is given on the opposite page.

The area-unit is a *square kadam*, which, in bíghá measure, is called *biswáńsí*, and in ghumáo measure, a '*sarsái*' (or *sarsáhi*).

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[1] *Financial Commissioner's Consol. Cir.* Part II. No. 28 (§ 48, p. 150). Ghumáo indicates a measure dependent on the method of ploughing, being derived from 'ghumáná' to turn (the plough): in other words, an area the length of which is the customary furrow made by the plough before turnnig. The Muhammadan measures of Imperial times have fallen out of use, except in Fázilka, where the Sháh Jahání bighá of 3025 square yards (nearly $\frac{5}{8}$ of an acre) is in use.

In the former—

20 Biswánsi	1 Biswá.
20 Biswá	1 Bighá.

In the latter—

9 Sarsái	1 Marla.
20 Marla	1 Kanál.
8 Kanál	1 Ghumáo.

In the districts of		The Kadam is in inches.	Proportion to acre.	
Bighá measure	Delhi, Rohtak, Gurgáon, Hisár, Lúdiána, Ambála, Karnál, Fázilká (Firozpur district).	57·15	1 Bighá = 0·208 acres, or 4·8 bighás = 1 acre.	The standard acre is 4840 square yards.
	Simla	54·00	1 Bighá = 0·186 acres, 5·38 bighás = 1 acre.	
	Kulu and Plách (Kángra district)	56·00	1 Bighá = 0·2 acres, 5 bighás = 1 acre.	
Ghumáo (or kanál) measure	Sháhpur-Kandi (Gúrdáspur district)	59·03	1 Ghumáo = 0·8 acres, 1·25 ghumáos = 1 acre.	In some places it is common to count by kanáls instead of by ghumáos and kanáls. Thus they speak of 246 kanáls and not 30 Gh. 6k.
	Jálandhar, Hoshyárpur, and Kángra (except as above).	57·50	1 Ghumáo = 0·76 acres, 1·82 ghumáos = 1 acre.	
	Amritsar, Gúrdáspur (except Shakargarh Tahsil and Sháhpur-Kand), Firozpur (except Fázilká) Lahore (except Sharakpur)	60·00	1 Ghumáo = 0·83 acres, 1·21 ghumáos = 1 acre,	
Tahsils Shakargarh, (Gúrdáspur dist.) Sharakpur (Lahore dist.) and all districts not named.		66·00	1 Ghumáo = 1 acre.	

§ 7. *Special Jurisdiction in Land Cases.*

Before proceeding to describe how rights in land are recorded, I must take the opportunity of explaining that, as disputes about right may still occur, it was thought desirable that power should be given to settle them on the spot, as far as possible. It is obvious that officers making or supervising the records, have exceptional facilities for disposing of such cases; accordingly, a Revenue Officer may

Act XVII of 1887, secs. 136-7.

be invested with powers for the purpose, and then it may be directed (1) either that the appeals lie to the controlling revenue authorities as revenue appeals, or (2) that the appeals shall lie to the civil appellate authorities, as usual, in which case the Revenue Officers are merely regarded as special Civil Courts for a particular class of cases.

§ 8. *Legal Provisions regarding the Record-of-Rights.*

Sec. 31. The legal provisions on this subject are to be found in Section 31 of the Act. A record-of-rights is to be made for each 'estate' (mahál); and the word 'estate' in the Act means an area for which a separate record has been made, or which is a separate unit of assessment to land-revenue, or which may be declared by the Local Government (by general rule or special order) to be a separate estate.

The *record-of-rights*, as legally defined, includes :—

(*a*) Statements showing, so far as may be practicable—
  (*i*) the persons who are landowners, tenants, or assignees of land-revenue, in the estate; or who are entitled to receive any of the rents, profits, or produce of the estate;
  (*ii*) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto; and
  (*iii*) the rent, land-revenue, rates, cesses, or other payments, due from and to each of those persons, and to the Government;
(*b*) a statement of customs respecting rights and liabilities in the estate;
(*c*) a map of the estate; and
(*d*) such other documents as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

As already stated, where it appears that a proper record does not exist, or that an existing one requires revision, either throughout any local area, or in some of the estates in such area, Government is empowered to issue a *Gazette* notification ordering the preparation or revision of the record. Sec. 32

The student will turn to the text of Chapter IV for all the provisions on the subject; here I only call attention to the prominent features. With reference to the policy of re-Settlement procedure, it is a main object, not only to make a record which shall be correct for a given date, but *keep* it correct by continually entering the changes that take place. The law, therefore, requires—

(1) the due preparation of the *initial record*; and

(2) the maintenance of an additional record, called the '*annual record*,' which is an 'edition' of the first, only kept continually correct by alterations and additions.

In other words, we have a set of documents which give the starting-point—an attested account of the facts as found at a certain date; and then another set (in precisely the same form), which are continually being corrected, by noting all changes occurring since the date of the initial record. As a principal means of ensuring knowledge of such changes, the *patwárí* is by law required to keep a *Register of Mutations* (i. e. changes of the name and circumstances of proprietorship, owing to death and succession, or to gifts, sales, &c.), and such other registers as may be needed. This will be further considered when we speak of the *patwárí's* office and duty. The law imposes on every owner or occupancy-tenant concerned in the matter, the duty of reporting and registering, every acquisition by inheritance, sale, mortgage, or other transfer; an occupancy-tenant is subject to the same provisions as a proprietor. Sec. 34

Entries once made in the initial record or the annual editions, are, by law, to remain unaltered, except (of course) in the case of undisputed alterations by transfer in the annual editions.

Other changes can only be made by—

(*a*) making entries in accordance with facts proved or admitted to have occurred;

(*b*) making such entries as are agreed to by all the parties interested therein, or are supported by a decree or order binding on those parties;

(*c*) making new maps where it is necessary to make them.

The Act prescribes fees for mutations, and imposes penalties for neglect to report transfer.

Sec. 46. I have mentioned the power given to the Financial Commissioner to make rules containing supplementary instructions regarding the preparation of the record-of-rights. These rules are to be found in the *Gazette Extraordinary* of 1st March, 1888 (Notifications, Nos. 74, 76, 78). For the details, reference may be made to Part II, Chap. III, and Part I, Chap. II.

Rules, Part I. Rule 144. Part II. Rule 49. All records (unless, for special reasons, there is a local order of the Financial Commissioner otherwise) are to be in Urdu (the official vernacular).

§ 9. *The Documents on a Record-of-Rights, prepared to give effect to the foregoing provisions.*

Part II. ch. III. 50. Part I. ch. II. 22. In the Rules will be found a list of the documents which form the record-of-rights and connected papers, which are in the same form as the Annual Record.

The student will do well to make himself familiar with the few technical names, as they will occur every day in his practice, if he comes to work in a district. Any one desirous of becoming really practically up in the system of record, should also get a clerk to show him a record and take him through it, form by form. I take them in the order given in Rule 22 (Annual Record).

I.—Khasra girdáwarí (with certain appendices). This is a list of the fields, showing shortly, the name of the owner and cultivator, giving the area and class of land, and showing the crop in each of the two harvests for four years, together with a note of any change in ownership or in the rent for any harvest. The appendix to this is (for each harvest), a list of each kind of crop raised in each class of land (well, canal, flooded, rain-cultivation, &c.), with details of success or failure in each kind.

II.—Jama'bandí (with appendices).—This is *the* record-of-rights *par excellence.* It is a sort of combined list of sharers or co-proprietors (khewat) and of cultivating tenants also; and is so far different from the form in use elsewhere—e. g. the North-Western Provinces—where *jamabandí* refers *only* to tenants paying rent. In raiyatwárí provinces, again, 'jamabandí' means the annual form of account of the lands held and the *revenue* payable, by each occupant[1].

The 'jamabandí' is perhaps the most generally useful of all the papers. It gives to each entry (for facility of reference) a jamabandí-serial number; it starts with the different subdivisions of the estate, and gives for each, the owners (usually a number of co-sharers) and cultivating tenants, with the survey-numbers held by each, the area, the cultivator's rent, the owner's fractional share (or other measure) of interest, and the rate at which the assessment falls on his holding; the revenue and cesses due and any arrears outstanding. The appendices to this—the 'mílán-raqba,' or account showing how every acre in the estate is disposed of, as waste, cultivated, newly broken, left fallow, &c., and the revenue account-sheet—I may pass over.

Part I. ch. VII

Once in four years, a '*detailed* jamabandí' is prepared, and to it a copy of the *map*, corrected up to date, is always attached. The form is the same, but in the 'detailed' *jamabandí* every field entry is *given in full*, without abbreviations. With the detailed *jamabandí* there are filed—

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[1] The last meaning is the only etymologically correct one; but the use of terms changes with circumstances; i. e. in an estate where once the Government used to deal with cultivators direct, and now a village proprietary body has been recognized, obviously what was once the jamabandí or *revenue*-roll payable to Government, has become the *rent*-roll payable to the landlord class; hence the use of the term in the North-Western Provinces. In the Panjáb the document so called, shows *both* the revenue payable by the proprietors *and* the rent payable by tenants.

(1) a list of revenue-assignments (mu'áfí register) and pensions;

(2) abstract showing the tenure of the estates, the mortgages and temporary transfers, and the revenue-free lands or revenue-assigned lands;

(3) abstract of *cultivating-occupancy*, showing how much is held by owners and by tenants of each different kind, and what rents in kind or cash are paid;

(4) an abstract of *prevailing rents*.

Land is classified into well, canal (or both), alluvial, bárání, or dependent on rain only (best and average); and against each class, the cash-rents and produce-rents are shown—in the latter case with details of the share of each party (i. e. of kamíṅ or village staff, owner and cultivator).

(5) A return of cattle, carts, &c.

It is a 'detailed' jamabandí that forms the initial record of Settlement; the annual jamabandís copy this with such abbreviations as may be convenient; it is only the *new entries of the year*—such as a new tenancy, a new owner's holding (arising from a mutation)—that are entered in full detail.

III.—Shajra-nasb.—This is in reality, not merely a *pedigree* table, as its name implies, but a complete account of the tenure of the proprietary body, showing the divisions of the village into 'tarafs' and 'pattís,' &c. (major and minor divisions), resulting from the branching of the family, as shown by the 'tree.' It accounts also for the measure of interest in the estate, of each co-sharer, whether that be the fraction resulting from the law of inheritance, or some share in a well, or parts of a plough, of a bullock, &c. (as explained in the chapter on Tenures); or it may be only the actual area in possession which has become the measure of right of each. From this document we can at once tell the brief history and constitution and form of the village, and how it is divided; its total revenue; the area of each co-sharer's holding, with a reference to the numbers in the list of holdings (to be presently mentioned). This document must be seen to be appreciated.

IV.—Village Map (Shajra) and Index (Khasra).—In order to make the map, a list of all the landholders, with their holdings (called khatáuni) has first to be made out, as correct as is possible with the aid of the existing papers. It shows all the occupants in a village—owners, tenants, revenue-free-holders, &c.—on a series of separate slips, bound together, so that a corresponding slip (*parcha*) may be handed to each person, and he can see what entries are going to be made in the map and in the record, in respect of the fields he holds; and he can call for any corrections that may be needed. As each field is measured, its number is entered in the *khatáuni*; and when all is complete, an alphabetical index is made of the *khatáunis*, and a list of the *khatáuni*-totals also (each number, how many fields it contains, and the class of soil, irrigated or unirrigated, &c.). A statement of rights in *wells* is also added.

Then comes the *khasra*, 'field-book' or index, in which each field is recorded *seriatim*, with its *khatáuni* number and area calculation. To facilitate reference, on the margin of each sheet of the *shajra* (or field-map) is written a list showing the number of each field in it, with its corresponding *khatáuni number*; and, as this appears also in the second column of the *jamabandí*, it is easy to refer from the map to the jamabandí. The khatáunis, being merely preliminary aids to preparing the map and index, are not permanently needed, and are destroyed after twelve years.

V.—Register of Mutations (Dák͟hil-k͟hárij).—This is the important register of changes, by aid of which the *jamabandí* is kept correct. There is an abstract statement made out from it, giving the *year's total* of transactions—both as regards owners and hereditary (or occupancy)-tenants. It will be observed that there are details in the Rules as to what transactions are entered, and what are not, which I do not here give. Only transactions *acted on* are entered, and *no* mutation is incorporated in the *jamabandí till* a

Rules, Part I ch. V.

revenue officer has passed orders on the register, allowing the fact. A copy of all entries attested in this way is attached to each *yearly jamabandí* as a voucher for the changes noted in it[1].

§ 10. *Arrangement of Records, and their use, &c.*

It will thus be seen that, as far as the permanent or *initial record* is concerned, it really consists of the detailed Jamabandí, with its appendices (the genealogical tree and share-list), the map and the map-index. Part II. ch. III. 50.

But, besides this, there is another document, which, from its nature requires no alteration from year to year. This is—

VI.—The **Wájib-ul-'arz**, or village-administration paper, stating customs and conditions affecting the management of the village, and its revenue- and rent-arrangements.

This document does not now contain any matters of *customary law*, such as rules of inheritance, adoption, power of gift, and so forth. It has been found inconvenient to have these matters loosely described (as they must be) in a record which is by law presumed to be true till the contrary is shown. Such questions are now noted in *Tribal Codes*, or books called *Rawáj-í-'ám* (general custom), which may be referred to, like any other text-books, for information, and may, accordingly, have considerable weight; but there is no legal presumption of accuracy in their favour[2]. Ch. III. 51. It will be sufficient to refer to the rules to show what matters are 'needed' (wájib) to be represented (ul-'arz), and the meaning of the title of this document is thus explained.

§ 11. *Attestation of the initial Record: its use and authority.*

I have already explained the relation of the initial or permanent record to the annual records; the former is what

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[1] Registers of mutations are permanently preserved for reference in the district office.

[2] This point has been often ruled by the Chief Court. A number of these 'Tribal Codes' are collected in Tupper's *Panjáb Customary Law* (Government Press), of which five volumes are now out;—a most valuable contribution to the literature of land-tenures and customs.

I may still conveniently call the 'Settlement-record,' and, in order that it may be known as correct for a given period of time, it is formally *dated and attested* by the Collector or Assistant Collector. These permanent documents are bound up in volumes. The collection opens with a note showing the authority under which, and the Collector by whom, it has been prepared, the documents comprised in the volumes, also the date of the commencement and completion of the record. Id. 50 (ii.)

By law, any entry in the initial record, attested and signed as just mentioned, and in the subsequent annual records (prepared and supervised and checked according to rule) 'shall be presumed to be true, until the contrary is proved, or a "new entry" is lawfully substituted therefor.' Act XVII. of 1887, sec. 44.

These volumes are never destroyed; they are kept in the district office; and so are all registers of mutations, and the *detailed jamabandis* and appendices prepared once in four years.

§ 12. *Volumes of the Old Settlement Records.*

As older Settlement records, prepared under the Act of 1871, or before that, may still be referred to, I may just mention that they consist of the following documents:—

'Thákbast misls,' showing how boundaries were settled. (These are separately kept, not bound with the volumes.)

The following were bound up in volumes, and the map in a pocket:—

(1) 'Shajra'—a field-map (a serial number given for each field[1] and measures noted on the boundary-lines).

(2) 'Khasra'—a field-index to the maps, giving also details of area and character of land (cultivated, waste, &c.); (appended to this is a 'statement of wells'). An abstract showing holdings brought together under

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[1] In the map, small plots and corners not conveniently included in a 'field' but belonging to the holder, are shown as 'gosha,' so that a man may have a field, *No.* 27 *mah gosha*, i. e. No. 27 with an odd corner belonging to it. And there were also parts of fields given under the same number with the addition of the word '*min*.'

the names of holders and called 'tírij' or 'muntakhib-ásámiwár' used also to be filed in the early Settlements[1].

(3) 'Village statements'—giving concisely the chief statistical facts about the village.

(4) 'Darkhwást málguzárí'—formal engagement for the revenue, signed by the headman.

(5) 'Khewat'—a list of owners or co-sharers only, and their shares and areas; sometimes accompanied by a *khatáuni*, which shows the tenants.

In the Panjáb a combined form, called 'khewat-khatáuni' was afterwards used, and is found in most of the second Settlement volumes.

(6) 'Rúbakár-ákhír'—or 'final proceeding' giving an abstract of the proceedings at Settlement, and any general orders about it.

(7) 'Wájib-ul-'arz'—record of customs and rights in special matters.

§ 13. *The English Settlement Report.*

Under the latest rules, the *Settlement Report* will in future not contain the detail of tenures, customs, and local history, as the earlier reports did. The rules on the subject will be found in the Financial Commissioner's *Consol. Circular*, No. 62. The *Settlement Report* will relate only to the assessment and financial work. But the rest is not neglected, only it is relegated to a separate work—the *District Gazetteer*; and a new Settlement may result in a new edition of this work.

SECTION V.—PRINCIPLES AND PRACTICE OF ASSESSMENT.

§ 1. *Early Methods—Difference between the Panjáb and the North-Western Provinces.*

We have now disposed of one of the great branches of Settlement-work—the Record-of-rights. There remains the second branch (p. 553, ante)—the assessment, on each 'estate' (which may be a village, or more than a village, or part of a village) of the lump-sum of revenue it has to pay; and the distribution of this sum over the individual holdings or shares.

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[1] It gave all the 'numbers' of the khasra collected according to the owner or tenant who held them. In the khasra, No. 1, No. 37, No. 508, &c., might all be held by one man; in the muntakhib the *name* of the man would first appear and *all* the numbers he held, in the columns.

The earlier method of assessment need not be described in any detail. It was, in fact, the 'aggregate to detail' method, which I have described at pp. 42, 3, ante.

I would ask the student, however, to bear in mind that from the first, there was this essential difference between the Panjáb and the North-Western Provinces—that, while their village systems are much alike[1], the constitution of agricultural society is different; the bulk of the land is *not* cultivated by tenants. Petty proprietors, co-sharers in village estates—holding fractional shares, or according to some other rule—cultivate their own lands, with their sons and cousins, and often their wives; and where, owing to caste and other circumstances, tenants are employed, those tenants often pay no rent at all—merely share the revenue burden with the proprietary families—or else pay rent in kind[2]. It is to be expected, therefore, that in the Panjáb, the principles and practice of assessment will also have developed on special lines. At first, and especially in the backward districts of the North-Western Provinces (where grain-rents were still common), there was more similarity; but, as years went on, the two systems diverged.

The difficulty that beset the early Settlements under Regulation VII of 1822 in the North-Western Provinces, and which was removed in 1833 (see North-Western Provinces, Chap. I. pp. 25-7, ante), was also felt in the Panjáb, but it was surmounted in a different way. In the North-Western

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[1] The difference being that some peculiarities of origin have to be noted, especially on the frontier; and above all that it is rare to find cases in which farming-leases or revenue-sales had interfered with the villages and introduced the recent landlords or landlord families so common in the North-Western Provinces (vide p. 112 on Tenures).

[2] It is calculated that of the cultivated area, nine-tenths is held by cultivating proprietors and only one-tenth by landlords (great and small) who do not themselves cultivate the land.

Provinces, the attempt to ascertain the net produce of all classes of land by taking the gross produce and deducting the calculated wages of labour, profits of stock, and costs of cultivation, was given up in favour of taking the *rental* of the estate as the 'assets.' Such a development of practice was not open to the Panjáb officers.

Really, what was done in the first Settlements, was to rely empirically on the fact that certain cash-assessments existed, that these were too high and had been got in with difficulty; or that now, by the effects of peace, owing to better roads and canals, to rise in prices and to extension of cultivation, they had become easy or too low;—these were the fundamental facts. The Settlement Officer talked freely with the people, and discussed matters with the village heads and with local hereditary officers and others. He began by taking a total sum which he thought fair for a whole tahsíl or pargana; it was probably an average of past collections, raised or lowered in the lump, by a general sense of fitness which arose in the mind of an experienced man, who had been carefully over all the tahsíl on tour, and had tolerable statistics of cattle, of wells, of increased cultivation, and so forth, to guide him, and also the figures of neighbouring localities for sanctioned Settlements which were working fairly. He then divided his tahsíl into *Assessment-circles* according to well-marked, locally-recognized kinds of soil, and according as the land was irrigated or unirrigated, high or low lying. And he made out *rates* of revenue—so much per acre—which he thought generally fair for the soils in each circle. To do this, he had a few cash-rent rates which afforded a guide; he had rates paid for ploughs, each plough working so many acres. Produce-estimates were largely relied on; experimental reapings of given acres were made, but the results were only used as tests. No minute valuation was resorted to; it was first calculated that one-third the gross produce was a fair share for the Government revenue when prices were low; but this was soon reduced to one-fourth; and afterwards it was always assumed that about one-sixth of the gross produce was sufficient; this could be calculated without difficulty for the grain-crops, and was valued at leniently-calculated average harvest prices. Applying the rates to the tahsíl acreages of each class, the Settlement Officer would see whether they gave an approximation to the total first assumed, or not; and he would then manipulate the rates till they could be fairly presumed correct enough to justify the total sums recommended.

The general rates and tahsíl totals had to be reported and sanctioned, and then, suitable rates being applied to each village in the circle, according to acreage of each soil, the individual village-revenue total could be roughly suggested. For the general or circle-rates were not applied, arithmetically, as they stood; there might be individual peculiarities in villages that required the average rates to be raised or lowered. 'The Settlement Officer,' wrote the late Colonel Wace, in his *Report* for the Famine Commission[1], 'is not required to apply the rates blindly, but to consider how far the circumstances of each village agree with the average condition of the tract (for which the rates were made out). If the soils or any one soil of the village, is better or worse than the average of the tract, or if there are any other circumstances affecting the prosperity or the productiveness of the tract and its rent- (revenue-) paying power, he is required to adjust the assessment correspondingly thereto. Having thus assessed each village, he again reports the result, in the form of a tabular statement, giving his reasons for any divergence from the (assessment-circle) tahsíl rates.'

§ 2. *Allowance for Caste of Cultivators.*

I should here mention that one of the circumstances affecting a village in respect of its capacity to pay, is the *caste* and class of its inhabitants. 'It is practically impossible to adjust inequalities of this nature, and it is politically inexpedient to attempt to do so. The more skilful agriculturists pay the higher rates with more ease than their less able neighbours pay the lower rates; and also, after paying the higher rates, they have a much larger margin of profit left to them. The less skilful agriculturists, on the other hand, are absolutely unable to pay the higher rates. In dealing with these matters, it is impossible to be guided solely by theories of equality of assessment. When differences of this nature are inquired into, they are found to have their origin in the different antecedent circumstances of each class, and not to be merely due to present differences of agricultural skill. . . . . Every man's right in the soil, and no less that of the State, is to be decided primarily by what he has in fact enjoyed during past years. Any attempt to ignore this principle in our assessments in favour of theoretical equality, would not only be financially injurious, but it would be distinctly opposed to the common feeling of the country; which is built up on, and permeated by, class distinctions, to a degree unsurpassed in any others [1].'

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[1] Vol. ii. p. 593. These remarks, though written with reference to the later or second series of Settlements, are equally applicable to the first.

The reader will remember these remarks, because, though applicable to the first Settlements, they are equally true under the most recent assessment rules.

§ 3. *Assessment Principles of the Second Period.*

The practice of assessment thus described, was varied more in terms and in matters of detail than in principle, under the rules followed in the next period, which I proceed to notice. First, some attention may be given to the 'half-assets' rule. The reader will remember that in the North-Western Provinces, after 1855, and as soon as the plan of calculating *rental*-assets began to be established, it was determined to reduce the Government share from the old two-thirds, or 66 per cent., of very loosely-calculated assets, to 50 per cent. (as a rule) of the more accurately defined assets. And when the rental methods were fully organized (as in Elliott's Farukhábád Settlement), and many minutes on North-Western Settlements had appeared, it is not to be wondered at that the mention of calculating the 'assets' of an estate, and of taking 50 per cent. of these assets as the Government revenue, became more frequent in the Panjáb. When the Act of 1871 was passed, and Government formally laid down rules of assessment, this idea or principle was still more prominently brought forward. The 'assets,' however, were not cash-rental assets, but either grain-rentals, valued in money and compared with cash-rentals found to be paid in certain cases, and tested by various calculations; or a similar rental-value estimated (or assumed) for land which was not rented—and this was the greater part of the whole area. Accordingly in this period, we begin to hear more about tenants and their rents, or rather about the landlord's share of the produce, as the basis of assets.

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[1] Quoted from the *Famine Report*, vol. ii. p. 601. It is remarkable that throughout the Panjāb proper, the Muhammadan and other classes who are poorer agriculturists, are settled on the lower-lying lands along the river-valleys where the climate is less healthy, but the soil easier to work. The finest races of Jats and others—the best agriculturists—are on the higher levels, where the soil is not less good, but where greater labour is required.

I am not aware, as a fact, whether there has been of late years any marked increase in the employment of tenants; but in the Famine Commissioners' *Report* (1879) it is stated that 44 per cent. of the cultivated area is held by tenants[1], and 54 per cent. by cultivating landlords. Of the whole body of tenants, 30 per cent. has occupancy-rights; many of these pay only revenue-rates, with or without the addition of a 'málikána' of two or three annas in the rupee, over and above the revenue-rates. That is why so large a proportion (72 per cent.) of occupancy-tenants appear to be paying 'cash-rents.' Of the tenants-at-will, about half pay cash- and half produce-rents[2].

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[1] Either by persons of the tenant class, or by landlords of other land paying rent as tenants for common land of their own community or of some other village.

[2] See details in the *Panjáb Report of the Famine Commission*, vol. ii. pp. 556–58, and a table with later statistics in the chapter on Tenures, post.

§ 4. *Rules of* 1873.

Rules for assessment were first formulated in 1873. They were approved by the Government of India[1]; and I may speak of the 'Rules of 1873' as fairly representing the second period in assessment policy.

It was expressly provided that the Government revenue should not exceed the 'estimated value of half the net produce of an estate, or, in other words, one-half of the share of the produce of an estate ordinarily receivable by the landlord in money or in kind.' Where rents in kind were usual, 'special attention' was to be given to produce-estimates. The rules said nothing about how 'produce-estimates' were to be made out, or how their value in cash was to be calculated.

But the system still contemplated starting with an aggregate sum for a tract or circle; and from this 'revenue-rates' could be deduced for each class of soil. Both aggregate sums and proposed rates, were to be reported and to receive sanction, *before* they were applied to villages; and, as already stated, such rates need not be adopted, unaltered, for individual villages; they were rather taken as standards to be kept in mind.

§ 5. *Assessment of Irrigation.*

I should explain that, under the first methods of assessment, canal-watered villages were mostly assessed with a general rate, of which a fraction was credited to the canal revenue account. But, afterwards, a rule was uniformly adopted which had first been used in Mr. Edward Prinsep's Settlements (1862–68). The land was assessed on its ordinary or 'dry' aspect, apart from the well or canal, and then they added what was called a 'water-advantage rate.' In the case of canal lands, this was called the 'owner's rate[2].' It is paid by acreage-rates on the area actually irrigated in each year. The rates vary for different classes of crops, and do not include the charge for the water as a commodity, which is a separate demand. The Canal Act of 1873 (now in force) recognizes assessment in this form; it speaks of an 'owner's rate' and an 'occupier's rate'; the latter, being a charge for the use of water as a commodity, is paid by the person who actually takes the crop.

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[1] See *Financial Commissioner's Consol. Cir.* Part II. No. 30, § 46. Also Letter from Government of India to Panjáb, No. 905, 17th October, 1873.

[2] In the Bári Doáb lands, the 'owner's rate' was R. 1 per acre. This plan has ever since been adop-

Act VIII of 1873.

In this period, 'fluctuating-assessments' began to be made use of in precarious tracts; but these I will describe presently; practically, they belong to the latest or most modern rules.

§ 6. *The existing Law and Practice regarding Assessment—General Assessment—Special Assessments.*

We now come to the third or modern period (since the Act of 1887).

I may first give a summary of the *law* and *rules* on the subject, and describe the *practice* separately.

Act XVII of 1887, Cap. V.

As far as the law is concerned, Chapter V of the Act deals with the subject of assessments, separating provisions regarding the *general* assessment of districts or local areas, from those regarding the *special* assessments which are due to alluvial formation, the creation of colonies on reclaimed waste, or the lapse of revenue assignments. For convenience, I shall here speak of general assessments, reserving any remarks that may be needed on special assessments, to the Chapter on Revenue Business and Procedure. It might, no doubt, be said that 'Settlement' (i.e. the general Settlement of a district) is itself a part of 'Revenue business'—i.e. of ordinary revenue administration—and that the law

ted (see *Consol. Cir.* No. 53 (*B.* § 12), p. 565 of the volume). Why the 'owner's rate'—that is, the addition to the assessment consequent on a rise in value of the estate due to the canal (regarded as an improvement made at the State's expense)—should be credited to canals (quite apart from the 'occupier's-rate,' i.e. the actual charge for water used), I have always been at a loss to understand. The value of an estate may be greatly enhanced by a railway, yet we do not hear of a 'railway-advantage rate' credited to the Railway Department. I have seen an excellent draft of a new Canal Act, abolishing this distinction, but I fear it is not yet ripe for adoption.

of 1887 recognizes no special Settlement Officers as distinct from other revenue officers: that is true; still, for practical purposes, a 'Settlement' is spoken of, and is, in some respects, a distinct business; and therefore I have kept the subject of Settlement separate from the 'revenue business' of daily administration, as I have done in treating of other provinces.

§ 7. *Sanction to undertaking a General Assessment.*

As already indicated, a general re-assessment may or may not be generally desirable on financial and other grounds; it is not therefore undertaken without the previous sanction of the Governor-General in Council. The Act speaks of 're-assessment,' as there is now no general assessment of a district for the first time, to be done.

Act XVII of 1887, sec. 49.

The Governor-General may prescribe the principles on which the assessment is to be made, and may give such other instructions as he may think fit.

Idem.

§ 8. *Sanction to the Rates and Power of Correction.*

The assessment is made by a revenue officer. He is bound to obtain the Financial Commissioner's sanction to 'his proposed method of assessment'; and having reported (as will be presently explained) and got sanction to his method, and afterwards to his rates, he may announce the actual assessment for each estate, in such manner as the Local Government may prescribe. He also declares the date from which the assessment is to take effect. A landowner, or an assignee of revenue, may, within thirty days of this announcement, petition for an alteration as regards the amount, form, or conditions of the assessment: and there is also an appeal from the order passed on the petition. The assessment of a district or tahsíl, even when announced, is not final till the Local Government has confirmed it; and at any time before such confirmation, the Commissioner or Financial Commissioner may modify the assessment of any estate in the district or tahsíl; so that there are ample opportunities of correcting any error and avoiding mistakes.

§ 9. *Fixing the Period of Settlement.*

Act XVII of 1887, sec. 54.

When confirming an assessment, the Local Government fixes the period for which the Settlement is to last; but on expiry of this period, the assessment will continue to hold good till a new one is ordered to take effect. It will be observed that in this, as in every other Revenue Act, there is no period fixed by law. Former Settlements have usually (or often) been for thirty years, and that has got to be a sort of traditional period for 'temporary' Settlements. But in many cases a different term has been adopted; and in future (for instance) the period must depend on various considerations, and among others on the date of falling in of the several district periods, so that all Settlements may not expire at once[1]. It is convenient to have them falling in in a successive order of time, so that the available establishments may be employed suitably, and not be unable to cope with the number of Settlements at one period and be left without work at another.

'Under the system lately adopted, by only undertaking the re-settlement of a small number of districts at a time, these evils are avoided.' The re-settlement of a district (though it may be hoped that in future the time will be reduced) takes from four to five years; it follows that six districts can be settled in thirty years, and as there are thirty-one districts[2], of which one (Simla) may be practically left out of account, five Settlement establishments will have continuous employment, till all the districts have been so surveyed and recorded, that future revisions can be carried out without any special establishment at all.

'[1] It is not an easy matter to say theoretically what period is best; a long period has certain undeniable disadvantages, as well as those easily perceived advantages which are commonly set forth. The tendency of orders of late, has been to recognize some of the disadvantages of a thirty years' term, and to admit other considerations in fixing the period.

[2] See list at p. 538, ante.

§ 10. *Rules for Assessment approved by Government in* 1888.

The present theoretical basis of assessment is (as before) to ascertain the 'net assets' and take one-half as the Government revenue. But, as the actual net assets of each estate cannot be found out by any direct process, it is acknowledged that certain *rates* suitable to the different classes of soil recognized in each *circle* (selected as homogeneous for assessment purposes) must be obtained. These rates are multiplied over the proper acreage, and the result, being modified by certain general considerations, if necessary, gives the revenue total of the circle.

Under the earlier Settlements there was much attention paid to estimates of produce, but these were not in a suitable form for the requirements of the present rules. The estimate which is now required is obtained as follows :—

An average-sized ordinary tenant-at-will's holding is taken as a specimen in each soil-class, and the average yield of the landlord's share of the crop and the money rates paid for such crops as pay in cash (*ẓabtí*) being known, it is calculated what the value in money (at fair average prices) of the rental is. *These estimates are still found valuable*, either to compare with rates obtained from full cash-rents paid by tenants-at-will, or are useful by themselves, where cash-rents are too few or abnormal in character to serve as guides. They also serve to indicate the 'landlord's share' or net-assets of an estate when the cultivation is done by the landlord himself. 'They' (the estimates spoken of) 'are no doubt rough instruments upon which it would be unsafe to rely in fine questions of assessment; but if well made, they are often very valuable, by indicating that a proposed enhancement of (the existing) rate is certainly well within the standard of assessment, or, on the other hand, . . . that there are other grounds for caution in enhancing. They also serve to indicate in a very useful way, the relative proportion which the net profits of one kind of soil or one mode of cultivation, bears to another. An estimate of the half net produce for classes of land, has now . . . been formally substituted for the old produce-estimate known under the rules of the old Land-Revenue Act as Form D[1].'

The revisions of Settlement now sanctioned are most of them, likely to result in enhancement; for it is notorious that, since the British rule, a steady rise in prices has taken place, as well as a very large increase in extent of cultivation and improvement in its quality owing to extensions of the water-supply and greater facilities for the use of manure. 'After making fair allowance for increased cost of living and cultivation, these charges are all *a priori* reasons for expecting a to some degree proportionate increase of assessment, provided that the old assessment was not above the half-assets standard at the time it was made. But some of the existing assessments now coming under revision were made, in theory, on a two-thirds net assets standard[2], and others, like the earlier of Mr. Prinsep's Settlements, were based in theory on an estimate of the value of a one-sixth share of the gross produce which had little or no connection with the standard of half-assets. It is not possible in these cases to rely much on the old revenue-rates. New *half-assets average-rates for different classes of land in each circle, must be worked out, based principally on existing prevailing rent-rates paid in cash or in kind by tenants-at-will*[3]*: and from these, after test by applica-*

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[1] From paragraph 3 of *Financial Commissioner's Consol. Cir.* Part II, Land Revenue, No. 30, § 3. The whole of this Circular should be studied by those desirous of fully studying the question of assessment.

[2] See, however, the remarks made in vol. i. p. 307 and ii. p. 434. It may be doubted whether two-thirds of the 'net assets' calculated in a very loose fashion, were really more than 50 per cent. of the net assets more accurately defined. The reduction made in the North-Western Provinces in 1855 was really consequent on the improved method of calculating assets; at any rate on the fact that the assets were run up higher.

[3] 'Tenants-at-will,' because they alone pay full rates. It will be observed that at the bottom, the rule is in the spirit of the latest rule devised for the North-Western Provinces. In fact, we try to ascertain *actual rents* (converting grain-rents into fairly equivalent money values), not *rents such as they might be*, if fully enhanced. Where the essential difference between the North-Western Provinces and the Panjáb comes in, is, that in the majority of estates there will be only a few tenants, so that the net assets of the *proprietor's*

tion to specimen average villages in each circle, the Settlement Officer must deduce the actual revenue-rates which he proposes to use as instruments of assessment.' It is remarked that the half-asset average rates will, in most cases, point to a greater enhancement than could be actually taken; and it is further noted that, as Government does not wish enhancements at revision to be by large percentages, this also prevents the *half-asset rates* being adopted *as they stand*; the actual average rates to be applied, will in fact be often lower than the general rates as calculated.

Then again, though average rates can be applied to average villages, there will be many villages both above and below the average, so that *the particular rates applied to each village may be equal to, or above, or below, the circle average rates.*

It has also to be noted that canal irrigated lands are to be assessed at the same rates as lands of similar quality and advantages in the same tract or district which are not irrigated by canals; and the advantage derived by the landowner from canal irrigation is to be assessed by a separate 'owner's rate'[1].

§ 11. *Formal enunciation of Principles.*

Act XVII of 1887, sec. 49.

These general remarks will have prepared the way for the quotation of the formal rules approved by the Government of India, which are as follow:—

(1) The general principle of assessment to be followed is that the Government demand for land-revenue shall

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own land must be made out, not by the impossible attempt to calculate gross produce and deduct cost of cultivation, but by applying to it standards derived from examination of average holdings of the same class of land where there are tenants; and even then these rates are not rigidly applied as rates to be merely multiplied by the acreage of the village, but as tests to see whether the total sum proposed for the estate gives a reasonable average rate or not.

[1] For the details as to this, and how it is levied on mu'āfī and jāgīr estates when not exempted from paying it, or the proceeds are granted to the assignee; and how it is remitted in 'inundation canals' (which run during the flood season) when the water fails or is insufficient, see *F. C.'s Consol. Cir.* Part VII. No. 53 of 1882.

not exceed the estimated value of half the net-produce of the estate.

(2) The tract under assessment shall be divided into as many *circles* as may be required by broad existing differences of fertility, proprietary right, or tenure; and there shall then be framed for each circle as many 'revenue-rates' as may be necessary to distinguish the main classes into which the land is locally divided in respect to soil and system of agriculture, irrigation, or want of irrigation, so far as such distinctions are clearly apparent in marked differences of value of net produce, or are clearly recognized in prevailing rent-rates. These circle revenue-rates shall be so framed as to represent approximately *the estimated average annual half net produce of each such class of land in the circle.*

(3) In estimating the net-produce of cultivated lands of any class, whether occupied by landowners themselves or by tenants, the rents paid in money or kind on an average of years, by ordinary tenants-at-will for such lands in the assessment circle to which the estate belongs, shall be the principal guide.

(4) But when by the custom of any tract, certain expenses fall on the landowner which can properly be set against the rents above referred to (as, for example, the cost of wells, or of clearance of canal channels, losses on advances to tenants, &c.), full allowance will be made for such expenses; and in the case of lands the rents or net-produce of which have been increased by wells or other works of improvement constructed at private expense, care should be taken not to tax unfairly the capital invested in the improvement, and to altogether remit, for the period allowed by the special rules on the subject, any part of the assessment which may be due to the increase of rent or net-produce caused by such improvement.

(5) In assessing land irrigated by State canals, the Settlement Officer, unless otherwise directed by the Local Government, will assess such lands as nearly as may be at the same rates as land of similar quality and advantages in the same tract or district which is

not irrigated by canals, leaving the advantage derived by the landowner from canal irrigation to be realized by canal 'owners' rates.'

(6) When revenue-rates on classes of land for each circle, and estimated gross assessments for the same, have been framed by the Settlement Officer on the principles above indicated, they will be reported to the Financial Commissioner for preliminary sanction. But in the assessment to be finally adopted, full consideration must be given to the special circumstances of each estate.

(7) For example, in finally assessing each particular estate, the assessment officer shall take into consideration, in addition to the estimate obtained from the revenue-rates, all circumstances directly or indirectly bearing upon the profits and rents of the landowners, especially such circumstances as the following:—

(i) Rents actually existing in the estate.
(ii) All profits derived from the land, whether cultivated or uncultivated.
(iii) The husbandry and average produce of the estate.
(iv) The habits and character of the landowners and tenants.
(v) Proximity of markets, and facilities of communication and for disposal of produce.
(vi) Incidence and working of previous assessments.

And, so far as is justified by these circumstances, the assessing officer is authorized in the assessment of each estate to depart from the revenue-rates of the circle.

§ 12. *Practical Application of Assessment Rules—The Preliminary Report.*

In order that the half-asset rates should be correctly made out, a foundation is needed: certain preliminary matters have here to be established, and certain *actual facts* and *existing* rates have to be found out, regarding which a *Preliminary Report* to the Financial Commissioner is required. The heads of this report will sufficiently explain the different matters that have to be considered in making out the rates. These heads I will now comment on.

§ 13. *Assessment Circles.*

(1) *First*, taking the district by tahsíls: each will be divided into 'assessment circles,' and a classification of soils for each circle will be adopted and reported.

Generally speaking, the assessment circles of the last Settlement will be used, though one or more may be consolidated. Radical reconstruction of circles should be avoided, as it will involve the re-writing of statistics which have hitherto been kept up for circles of the last Settlement. Where new ones have to be framed, they should be as few as possible, and so *arranged as to express broad and permanent distinctions of agriculture,*—for instance, alluvial tracts near rivers; dry uplands dependent on rain; canal tracts, or tracts watered by natural streams, or by wells; and hill tracts. 'Besides these more obvious distinctions, natural differences of soil sometimes involve, in adjacent tracts, distinctions of agriculture of a most marked and permanent character, especially where the rainfall is not abundant; the rainfall which is sufficient for light loams ("rauslí," "mairá") being insufficient for crops on heavy clay-lands ("dákar," "rohí," "gholar"); or a low-lying tract of stiff clay will be found to be devoted largely to rice and other crops of a nature which cannot be grown on ordinary loams, and in other cases distinctions may depend on the presence or absence of efficient natural drainage.'

§ 14. *Soil Classification.*

Within the circles there are also different kinds of soil—irrigated and unirrigated, good and bad, sandy, clayey, &c.—so that without attempting to distinguish each slight difference, a certain definite classification may be followed, and a rate appropriate to each class devised. The scheme adopted is submitted to the Commissioner and approved before being entered in the *Preliminary Report* to the Financial Commissioner. A 'really simple classification, based on broad and well-recognized local distinctions' is the aim. Any classification depending on mere opinion gives rise to disputes and is open to objection[1].

§ 15. *Prices for Valuation—Produce—Landlords' Share—Rates Deduced.*

(2) *Secondly*: Prices of agricultural produce are reported, and the average or standard prices which it is proposed to adopt in valuing grain-rents. The inquiry into prices is carried back at least five years, and may be ten or fifteen, before the expiring assessment was made; so that it may be seen on what basis the assessment was made, as well as what alteration in prices there has been during the currency of the Settlement. It is now provided that, as regards these latter prices, the fortnightly price-lists published in the *Gazette*[2] are to be used. When there is a difference between the prices at the principal marts and those realized by agriculturists, this should be explained in the report. Famine years (of extraordinary prices) are omitted from the calculation[3].

(3) *Thirdly*: The *rates of yield* for each kind of crop of which the landlord commonly takes a share, and the area-rates which by custom are taken in cash, for crops not easily divisible in kind, are to be found out[4]. These of course may vary in each assessment circle, and in different soils within the circle.

(4) *Fourthly*: The average *customary share* of grain and straw which the landowner takes from tenants-at-will for each kind of crop in each circle, has to be stated, after allowing for fees or dues paid out of the common heap, or out of the proprietor's share. In different classes of land, for example, the landlord's share may be one-third, one-fourth, or two-fifths ('panj-do') according to circumstances.

(5) *Fifthly*: The *estimated net-value of the proprietor's*

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[1] For an example of classification, see Rules, Part I, Chap. VII A: (Notes on the Khatáuni, clause 14).

[2] *F. C.'s Consol. Circ.* No. 30, § 10, p. 172, 4th September, 1886.

[3] Resolution, Government of Panjáb (on Karnál Settlement), No. 55, dated 5th March, 1885, § 13, referred to in § 12 of the *F. C. Cir.* quoted.

[4] In Revenue language they are called ẕabti rates (see Glossary).

share on an average holding of a grain-paying tenant-at-will, for as many classes of land as have been adopted with a view to their bearing separate revenue-rates, in each circle.

These last three heads (3, 4, 5) depend on the average yield of crops being known, and the prices also, at which the yield can ordinarily be sold. Elaborate produce-estimates are not to be made out; reliance is (as already stated, § 10 ante) placed on the actual facts found on selected average holdings in each class of soil; but with a view to testing the figures obtained on these selected average holdings, general statistics of produce and the results of experiments carefully carried out, are valuable aids.

(6) *Sixthly*: The true cash (competition) rent paid for an average holding of each class of land in each circle (where such exist). It will now be generally possible to find such, and the knowledge of them will be valuable as a test or comparative standard by which to judge of the rates arrived at by valuing an average grain-share.

(7) *Seventhly* (this follows from the sixth): The standard half-assets rates (for different soils) are compared with these ascertained cash rent-rates.

This preliminary report ensures the correctness of certain fundamental data which, if incorrect to start with, would render of no avail all subsequent care and accuracy in calculation. *The report is based 'entirely on actual facts, no allowance being made with regard to results.'*

§ 16. *Inspection.*

At this point I ought to notice that both for the work just alluded to, as that which follows, the detailed *Inspection* of villages with note-book and map in hand, is most essential; and regarding this, paragraphs 14 to 18 of the *Financial Commissioners' Consol. Circ. (Land-Revenue)*, No. 30, may be consulted. This inspection will be especially valuable in determining how far the general or circle-rates can be approached to in assessing individual villages and holdings.

§ 17. *Actual Central or Average Rates for use—Assessment and 'Revenue-rate' Report.*

The next stage is to advance from these general preliminary rates, which indicate certain *limits* only, to actual rates to be really used. 'When the Financial Commissioner has approved the *Preliminary Report*' (being satisfied that the circles and soil classes adopted are sufficient, that the prices and rates of yield brought out are fair, and that the facts as to grain and cash-rents are correct), 'the Settlement Officer will begin the actual work of detailed assessment[1]. He will consider his theoretical standard rates with reference *to a number of average villages in each assessment circle, where there is no special reason for assessing below the standard, and devise revenue-rates suitable for assessing such average villages in each circle.* If these rates are (for general reasons) considerably below the theoretical rates, he should be prepared to give reasons . . . in his Assessment Report.'

It will be observed that there are three steps taken with regard to rates: (1) to establish theoretical rates resulting from certain observed facts; these do no more than establish certain limits; (2) these are adapted to *average* villages by the introduction of various local considerations and other matters, and so become *actual average rates*; (3) these rates are raised or lowered for villages that are above or below the average, under the circumstances specified in No. 7 of the *Assessment Rules* (ante, page 582).

Having added up the village assessments, the total will give the gross assessment of the circle (and thence the gross assessment of the tahsíl). These totals will not necessarily equal a gross assessment arrived at by applying the average revenue-rates to the circle acreages; for some villages will have been assessed above and others below the average actual rates.

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[1] Quoted from § 5 of the *Circular* alluded to. Even 'average' villages in the circle will not always bear the theoretical or standard rates, because, these rates are based on certain *facts*, and take no account of several other matters which actual assessment rates must have respect to; e.g. that the new rates should not represent a large or sudden rise upon the old rates.

The Assessment (or revenue-rate) Report is now submitted, to justify these gross assessments, and the general village-rates adopted. Where the village-rates, as they actually come out, are not more than 20 per cent. above or below the general or average-rates, no explanation is needed, but if the limit is exceeded, clear and simple reasons should be given. The details about preparing the *Assessment* (or revenue-rate) *Reports* must be gathered from the *Circular* itself. The Reports are now much reduced in length, and in the matter of statistical appendices are much simplified. Appendix A to the *Circular* gives a synopsis of the contents of such a report.

§ 18. *Examples from Recent Assessment Reports.*

As examples of the modern assessment report (under the Rules last considered), I may take Mr. E. B. Francis' *Report* on the Mogâ tahsîl (Fîrozpur), and Mr. Kensington's on North Ambâla.

The Mogâ report indicates that the 'preliminary report' had justified the re-assessment being undertaken. There had been an enormous increase of cultivation, the Sirhind Canal having been constructed through the area, and prices having risen, while the former assessment was extremely low.

It was impossible to adopt the assessment circles of the last Settlement, because they had been merely local divisions or 'ilâqas' under the former Government, and some of these had ceased to belong to the district.

The Mogâ tahsîl and its history, statistics, tenures, tenancies, its growth in prosperity and its agricultural conditions, are then described with a thoroughness and evidently intimate knowledge of the place and people which go far to contradict the assertion sometimes made, that a Settlement Officer *cannot* acquire a real acquaintance with soils and with the details of agriculture. All this I must pass over, because my object is to illustrate the *method of assessment under modern rules.*

The conditions evidently warranted a large rise in revenue throughout the Mogâ circle, which was treated as one, owing to the impossibility of definite subdivision, although it was known that the villages on the north and east were better than those in the south and west. An outlying piece in the south. called Máhráj, was treated as a separate circle, being poorer, and also the revenue of it is all assigned to a jágírdár.

Mogâ is a vast sheet of cultivated land, with little or no waste for future expansion; but the canal may promote the development of new crops, possibly of sugar-cane, unknown as yet in these parts. The population is mostly Jat, in clans occupying definite tracts, as shown by a capital map.

The farming of these fine Jats, says the Commissioner in his review, 'is described as good, plain farming, with deep ploughing, clean fields, and well-cared-for cattle; but they do not attain the high standard of the Aráin, Saini, and Kamboh classes.' Mogâ circle is 629 square miles (172 villages of 520,467 acres). Máhráj is 184 square miles (37 villages = 117,688 acres).

According to existing rules, no detailed produce-estimates were made out, and though experiments were made during three years, too much reliance was not placed on them.

Land is first considered in its 'unirrigated' aspect. The rainfall is somewhat small (about 20 to 22 inches). Taking the proportions of land cultivated at each harvest (in Mogâ, 40·5 per cent. is autumn crop and 59·5 spring), the grain of both seasons (without counting straw and fodder) is worth R. 7·7 per acre in Mogâ and 6·3 in Máhráj circle. It was known that the proprietors would not accept rates below certain cash sums in commutation for their grain-share (one-half in unirrigated land). The existing assessment-rate was 8·4 annas per acre in Mogâ. As cultivation and prices had been enormously increased, this was very low indeed. But the Settlement Officer had to consider such a rise as would not be too great. He also had to consider rates fairly proportionate to those in the neighbourhood.

Taking the grain alone, we should have the proprietors' share for the year worth more than R. 3·8, and 50 per cent. of that would be about R. 1-12 per acre.

Mr. Francis did not begin quite so high; he essayed with R. 1-3 as. per acre (one rupee per ghumáo by local measure, the ghumáo being here five-sixths of an acre). This rate was for the north-east villages, and was gradually reduced to 14·2 and 13·2 annas per acre in the south; this would have given 60 per cent. increase in the *jama'*. In the end, on a variety of considerations detailed, the rate was reduced to 18 annas per acre (15 annas per *ghumáo*), and a little lower for the poorer villages; the *average* was 13·8 annas per acre, and for Máhráj circle 9 annas 2 pies per acre.

On *well* lands the owner gets one-fourth, not one-half, as his share. Wells are confined to a narrow strip along the north of the tahsíl. A certain additional rate was put on wells[1], a lump-sum of R. 8 or R. 9 on an average for each well, giving 8·4 annas per acre additional on 3600 acres watered by wells.

The rates in adjacent Native States are compared, and considerations stated about the possible limits of a rise in the present rates.

The proposed demand is not equal to more than one-twelfth of the gross produce,—not more than one-ninth, after deducting straw and fodder. These rates need more justification for their moderation than for their heaviness; but the circumstances of the place are considered, and the absence of waste for any further expansion of cultivation; and it is pointed out that the man who paid R. 5 revenue will now pay R. 8, and that this is as considerable a rise as is convenient.

Cesses are then considered; and *Instalments* are fixed, two for the *k͟haríf* (1st December to 1st February) and two for the *rabí'* (15th June to 15th July). 'As so little of the *k͟haríf* is turned into money, I thought the zamíndárs would prefer to make a larger proportion of the revenue payable at the *rabí'* season.' Some of the distant villages were offered the option of paying in one instalment at each harvest, to save journeys to the tahsíl, but they preferred the former.

Very little is said about the canal. The additional rate for increased value (owner's rate) and charge for water (occupier's rate) are levied under the Canal Act and go to the Irrigation Department.

As a second example from a different district, I take Mr. Kensington's Report on the KHARAR tahsil in the AMBÁLA district:—

' Here the old Settlement had made ten circles out of the total area of 369 square miles (of which 235 are cultivated).

On the east part lie the Siwálik hills (low sandstone hills, outworks of the Himalayas) and poor barren country at their foot. The hills are bare, but do not give rise to sandy torrents as in the neighbouring district of Hoshyárpur.

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[1] The rate was on the entire area of the 'well,' because the area actually watered varies. It was necessary to use lump-sums, which bring out the above rate on the *average* area which 'a well' protects or may irrigate.

It was difficult to make circles, for the villages constantly vary in a way that almost defies grouping. Even in the old ten circles, rates varied so much within the circle, that it came to be much as if sixteen circles had been taken. On the whole it was decided to adopt six circles. One (called Ghar) was a natural group of hilly land; another (Nelí) was an irrigated tract with distinctive features. The former 'Seotí' or loamy-soil circle was divided into two circles: the dákar or clay (in the south) made another, and a small circle (Charsa) on the extreme west, was also separated for reasons stated.

Except the hilly circle, the rest is much irrigated by ducts from the Ghagar river; and the Nelí tract was a rich but peculiarly unhealthy portion, the people suffering from goitre and other diseases, and living mostly in the town of Manimájra as the most healthy site. The population is, however, still over 700 to the square mile, for the irrigation, says Mr. Melvill in the old report, gives the 'prospect of obtaining immense out-turns to their labour.'

The rainfall is about 30 inches generally, but the soil is naturally moist and gives crops even when the rain fails somewhat. Two-thirds of the tahsíl is owned by good agricultural classes, principally Jats.

I pass over the excellent and concise account of statistics, fiscal history, and other details, to come at once to the assessment-rates.

The tahsíl was too isolated to make a comparison of its rates with those of the neighbourhood, of much use. Produce-estimates are discussed, the result of statistics of crops and of a number of experimental reapings, being given.

Grain-rents are examined, and also true cash-rents which are found to be in use on only 4 per cent. of the cultivation. Prices for the conversion of grain, to give cash-rates, are then considered.

It is then shown what increase (on the present revenue) the revenue at half-assets on produce-estimates would show; it would be an average of 33 per cent. increase. The old assessment is however shown to be a full one, except in the Charsa circle. There is not, therefore, much ground for a general increase in the revenue, except on the ground of new cultivation to be assessed; and of the increase of prices which has been considerable. 'As the result of much elaborate calculation' a general increase on the tahsíl-revenue of R. 32,438 is proposed. This increase is obtained by the following average rates for each circle:—

CIRCLE.	SOIL CLASSES.											
	Cháhí.			Ábí.			Unirrigated.			Garden.		
	R.	a.	p.	R.	a.	p.	R.	a.	p.	R.	a.	p.
Sootí I. . .	4	8	0	......			2	0	0	2	0	0
Sootí II. . .	4	8	0	2	5	4	1	10	0	2	0	0
Dákar . . .	4	0	0	......			1	4	0	2	0	0
Charsa . .	3	8	0	......			1	8	0	2	0	0
Ghar . . .	5	0	0	......			1	1	0	2	0	0
Nelí . . .	......			2	5	4	1	2	0	2	0	0

These rates are an average increase of 14·6 per cent. on the old rates, the actual increase being highest in the Charsa circle and in the Ghar circle, and lowest in the Dákar and Nelí circles. Applying these rates to the different areas in each circle, the total assessment of R. 2,54,388 (which is an increase of 32,438 on the present 2,21,950) comes out. It is not stated how these rates are obtained, because it is not an arithmetical process merely; old rates existed, produce-rates were available for comparison, cash-rents were actually paid in some instances, and there were general considerations of possible rise under existing conditions, and so forth; and by continual comparison, fair average rates shaped themselves in the mind of the Settlement Officer—rates which can be justified by comparison.

A brief *résumé* of the main characteristics of each circle is then given—its prosperity or deficiency, its general quality, its increase in population and cultivation since the last Settlement. These facts, stated in close proximity with the new average or central rates and the percentage of increase shown by them, afford a general indication of the probability of the increase being in accordance with the conditions. The cesses are then briefly mentioned—the local rate, the cess to pay patwárís, and that to pay headmen.

The Report closes with twelve tables of statistical facts. I. Area and irrigation; II. and III. Yield of crops (the main staples); IV. Comparison of the existing and proposed Revenue under its different heads; V. Facts regarding sales, &c.; VI. Detail of tenures; VII. Detail of tenants and cultivating occupancy; VIII. Detail of rents paid by tenants-at-will; IX. Return of cattle, ploughs, and population; X. A table (specially worth examining), showing area (as in II. and III.) under crops and the produce value of each; XI. Comparison of estimated yield of crops as compared with experiments; XII. Detail of experiments.

§ 19. *Progressive ('Rasadí') Assessments.*

In some cases, it is found desirable not to take a full increased revenue all at once, but to allow the revenue to rise by stages from its old amount to the new one[1]. The Financial Commissioner remarks on this subject:—

'The system is most legitimate in the case of estates owned by proprietors, who are, in respect to income and a scale of expenditure, much above the ordinary run; if such estates are found to be very lightly assessed, both with reference to present profits and capabilities of improvement, then, in making a Settlement for a long term, I think progressive jamas often decidedly expedient. These men can, and often do, prepare for the coming increase by reducing expenditure or by extending cultivation; and in such cases I would sometimes postpone part of the increase for as long as seven or even ten years.

'Where, however, the proprietors are poor, their individual holding small, and culturable waste not large,—in other words, where the large increase is justified by rates rather than by the proprietor's circumstances,—I think progressive jamas should be very rarely adopted, and, where adopted, I think the term of postponement should be short—not in all more than five years; and to avoid progressive jamas, I should, in such cases, be prepared to sacrifice in such individual villages a considerable proportion of the enhancement fairly demandable, and to tolerate in them, as compared to other villages, a very considerable inequality of assessment. The fact is that in villages of this class there is not much reason to hope that the proprietors will be any better able to pay the full increase some years hence after paying an in itself large increase meanwhile, than they are at present. They are just as likely to be less able to pay it. In the case of petty proprietors in poor circumstances, all depends upon the character of the harvest and prices current. If they start with a good year, they may be able to pay at once a larger enhanced assessment more easily than they paid the old light one in the year before. In very bad seasons suspensions of the demand will, I think, be always necessary in villages of this kind, which are not very lightly assessed; and where several bad seasons occur successively or nearly so, remissions will be necessary. I think we must take for granted in assessing that the future revenue management of these villages will be of this nature.'

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[1] See *F. C. Consol. Cir.* (Land-Revenue) No. 30, §§ 21 and 24, requiring a special report respecting assessments that are progressive, either with reference to general circumstances, or when a 'protection lease' having been granted for an 'improvement,' the revenue will only rise to the full rate after the expiry of the privileged period.

§ 20. *Allowance for 'Improvements' made by Private Expenditure.*

The policy of Government always is to encourage people to spend money on the land, by assuring to them the fruits of their expenditure. On the subject of exempting improvements from taxation, however, a good deal of misunderstanding is prevalent; and phrases are often used which are apt to mislead. In taking a share of the produce of all land, Government must necessarily take a share in the fruits of private improvements. Take, for instance, the case of a field on which no definite work of 'improvement' appears, and yet the whole treatment of the land has been one long 'improvement'—by the expenditure of patient labour and money little by little, in bringing the original waste up to its present state of highly productive tillage—and compare it with the case where a rich man spends 800 rupees at one time, in sinking a well: the one would probably pay full rates, the other be exempted on the ground of 'not taxing the outlay of capital'; yet one man is just as much entitled to favour as the other. It is possible, however, to afford a definite *encouragement* to such expenditure as can be taken immediate count of; and this is done by issuing a certificate, promising that for a term of years no increase in the assessment shall be made on the ground of the increased yield due to the improvement, no matter whether a revision falls due during the currency of the certificate, or not. This is the principle which is referred to in § 4 of the Assessment Rules, given at p. 581 ante. The details will be found in the *Consolidated Circulars* (Land-Revenue), No. 30 (D), § 40. Leases, or 'protective pattas,' are issued on account of wells (not being 'kachchá' wells, i. e. without masonry lining), reservoirs, or canal cuts, showing the period (which may be twenty, ten, or, in some cases, five, years) during which the land benefited is exempted from anything beyond the ordinary 'unirrigated' assessment-rate[1].

§ 21. *Assessment of particular Lands.*

I do not propose to go into detail about the assessment of cultivated lands within the limits of Cantonments or Civil Stations[2]; the Government orders are to be found in the No. 30 (Land-Revenue) of the Financial Commissioner's *Consol. Circulars*, to which I have been alluding.

§ 22. *Remission of Land-Revenue in connection with Arboriculture.*

Plantations of 'timber-trees,' as well as gardens and orchards of fruit-trees, may be exempted or excluded from the assessable area, up to 10 per cent. of the total area, so long as they are kept up and the land is not used for other cultivation. The details of this are clearly explained in the volume of *Consol. Circulars* (Land-Revenue), No. 32.

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[1] Similar protective leases are granted where improvements are made under the Agricultural Loans Act (XIX of 1883). On this subject Rules under sec. 11 of the Act are framed. The protected improvements in this case include, not only irrigation works, but also the reclamation of land from waste. The rules have not yet been finally sanctioned at the date I am writing.

[2] The *redemption* of the land-revenue is permitted in the case of house sites, &c. The details may be found in *F. C. Consol. Cir.* No. 30 (F.) § 50.

§ 23. *Fluctuating-Assessments.*

Act XVII. of 1887, sec. 56 (3).

The Act contemplates this method of assessment, which has, for some years past, been, at first tentatively, and then more generally, adopted in *precarious* tracts, where either the harvest is absolutely dependent on river moisture or on rainfall, or on the flow of an inundation canal, any one of which is liable to wholly or partially fail[1], and that not once and again in a long course of years, but frequently; the action, in fact, being quite uncertain from year to year. Fluctuating-assessments are also specially useful where changes by alluvion and diluvion are so frequent and marked as to render the ordinary rules regarding di-alluvial assessments insufficient.

Part II, ch. V, secs. 56, 7, 8.

The law requires that where the assessment is 'in the form of rates chargeable according to the results of each year or harvest,' the Revenue Officer is, not later than one month before the first instalment of the land-revenue falls due, to make and publish a record of the amount payable on each holding. This record is prepared as directed in the Rules.

Fluctuating-assessments are commonly allowed in the Deráját districts, in Multán, Muzaffargarh, Jhang, and Montgomery, and in the Fázilka and Sirsa tahsíls (Fírozpur and Hisár districts); there are other tracts also.

In the Upper Panjáb (speaking generally) the river action is less violent, and there is also rain enough to enable cultivation to be carried on even if the river alters somewhat, so that an ordinary system of dealing with the alluvial portion of villages suffices [1].

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[1] There are some districts so variable that no revenue-rates such as could be paid steadily, in good years and bad alike, can be devised. In ordinary assessments, the theory is that the rates are average rates, so that even if they are hard for a bad year, the next good season will amply make up the loss: but even then, remissions or suspensions of the demand may be required. But in very precarious tracts no rate could be fixed; even a very low rate would be impossible in years of total failure, but would again be seriously inadequate in a cycle of good years, when the harvest might be abundant and as valuable as in a rich district. See volume of *Selected Correspondence on Fluctuating-Assessments*, Panjáb Government Press, 1880, and *Note on Fluctuating-Assessments* (Selections from *Records of the Financial Commissioner*, No. 25, 1884).

But in the southern river-tracts, the rivers are apt to be so sudden and capricious in their action, that not only is the change by erosion and deposit excessive, but large tracts lose their moisture and become actually unculturable, the rainfall being wholly insufficient: or, on the other hand, large tracts become culturable and remain so for a time [2]. Here no ordinary di-alluvial system suffices.

There are also special tracts where water comes down from hill-torrents, or where there are jhíls (or swamps), and the cultivation is altogether uncertain—at one time being very good, owing to fertilizing deposit, at another time failing altogether. For such places there have been a variety of 'fluctuating systems,' and of late years the tendency has been to extend their application.

In the DERA ISMAÍL K̲H̲ÁN district the systems are thus described [3]:—

'In the Dera Ismaíl K̲h̲án district there are two distinct systems of fluctuating-assessment, one of which applies to the dáman or plain which slopes down from the Sulaimán range to the Indus, where cultivation is carried on in embanked fields by means of irrigation from the hill streams which issue from that range; and the second applies to the "kachchí" or alluvial lands of the Indus.

'(I.) In the dáman the cultivated area is especially liable to vary from year to year. The culturable area is very extensive, but the area actually cultivated in any year depends first upon the rainfall in the hills beyond our border, which feeds the hill streams that flow out upon the dáman, and secondly upon the successful erection and maintenance of the dams across these hill streams. The rainfall may be deficient and the supply of water scanty, or the torrents may come down in such force as to sweep away the dams, and thus make it impossible to lead the water where it is required; and owing to the right of the upper villages to irrigate their lands before allowing the floods to pass on to the lower villages, the former may, in years of somewhat scanty rainfall, be well watered and prosperous, while the latter are dry and waste. In consequence of this liability of the tract to great fluctuations of the yield, and in order to facilitate the introduction of cash payments by the individual landholders and the abolition of the hitherto existing mushakhsadár or lambardár-lessee system, it was arranged at last Settlement that some system of assessment less rigid than that of a fixed demand, should be adopted; and therefore, after framing estimates for fixed village assessments, *only one-fourth of these was in each case announced as the fixed assessment*, and in lieu of the other three-fourths it was arranged that *crop-rates fixed for each circle would be charged on the cultivated area each harvest*. The objects aimed at in keeping one-fourth of the revenue fixed were (*a*) to stimulate cultivation, and (*b*) to relieve the cultivator from an excessive demand in years of superabundant harvests and low prices.

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[1] This system being worked from year to year and not only at Settlement time, is described under the head of Revenue Business in Chap. IV. Sec. II, and see *F. C. Consol. Cir.* No. 33.

[2] Moreover, in the Upper Panjáb, when a proprietor suffers by river action, redistribution of the revenue-burden is possible, so as to shift a payment from a man who has lost, to others who have gained—supposing the whole estate not to suffer. But in the south, the villages are made up of independent holdings, and waste is not available to compensate losses: redistribution of the revenue is then a very difficult matter.

[3] Notes on Fluctuating-Assessment in *Financial Commissioner's 'Selections'* No. 25 (1884), p. 571.

'Crops on "réh" lands—i. e. lands without embankments, merely swept over by floods—are charged one-half usual rates for cotton and wheat, and one-third rates for other crops. "Lálmi" crops—i. e. crops from self-sown seed—are charged, at the district officer's discretion, one-quarter rates. Further instructions as to the working of the system will be found on pages 232 and 233 of Mr. Tucker's *Settlement Report*.

'(II.) The main features of the system of fluctuating-assessment on the kachchí or Indus riverain lands of the Dera Ismaíl Khán district are as follows:—

'The whole cultivated area of each village, including land watered by wells, is annually assessed at a uniform rate per acre (fixed at Settlement for that village), new cultivation being charged half rate for two years; in addition to this, wells are assessed with a light fixed *jama'* (ábiána) announced by the Settlement Officer for the village, and then distributed by the people over the wells and jhalárs[1]. If a masonry well falls in owing to floods, or is carried away by the Indus, the ábiána assessed on it is to be remitted; but no remission can be claimed merely because the well has ceased to be worked; while, on the other hand, new wells will not be assessed; the assessment on a jhalár, on the contrary, will be remitted if the jhalár is thrown entirely out of use, and new jhalárs will be assessed at the village rate. In Bhakkar and Leia tahsíls all lands not assessed as cultivated, except waste, sand, and river bed, are to be annually assessed in their grazing aspect at R. 3-8-0 per 100 acres; no such assessment has been imposed in the Dera and Kuláchi tahsíls—a difference due to the past history of the tirní or cattle-grazing assessment. For a fuller description of the system, reference may be made to pages 248–252 of Mr. Tucker's *Settlement Report.*'

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[1] Jhalár is a small wheel apparatus like a well-wheel, worked on the edge of a canal cut, &c., where the water is at such a level as to require lifting.

A somewhat different system for the Ísákhel and Miáṅwálí tahsíls of Bannu district is given in the *Selections.* The land that had borne an autumn harvest, and that sown for the succeeding spring, is alone liable to pay the rate: there is, moreover, an allowance for new land; special rates are charged for land used for grazing or growing reeds. Wells in this tract are not separately rated.

In the MULTÁN district,

'the sailáb lands on all three rivers, Rávi, Chináb, and Sutlej, were subjected to the system of fluctuating-assessments,—see pages 150 to 153 of the *Settlement Report.* The principles of the system in this district are these:—

'I.—All "wells" (with the land attached to them) are assessed as before with a fixed *jama'*. . . . [The total of these lump-sums on "wells" forms the village assessment. No rate is put upon other land, except when it is "sailáb," or watered by a jhalár, then it becomes liable.]

'II.—For all cultivation an acreage rate was fixed at Settlement *for each village*, and is levied by annual measurement. "Nau-tor" or land newly brought under cultivation is assessed at half rates for two years and afterwards at full rates.

'III.—No rate beyond anything that may have been taken in the original fixed *jama'*, is charged for uncultivated land of any description; but it is proposed that the Government, in sanctioning the assessments, should

> reserve to itself a right to cancel the Settlement on the fluctuating system, and substitute a fair fixed assessment for the rest of the term of Settlement in the case of any village the proprietors of which purposely neglect cultivation.'

In MUZAFFARGARH the 'bet' lands in the different tahsíls are under fluctuating-assessment, on slightly different principles in each.

'On the Chináb villages (except at the south end) the system is nearly the same as that of Multán: except that a small assessment has been put on the village area in its waste aspect, and newly cultivated lands get one year's exemption instead of two. But at the south end of the Chináb, on the Sutlej, and Indus, "wells" and "jhalárs" (on the rivers or creeks) have each a lump-sum assessment which is ordinarily fixed, but is remissible when the well or jhalár is destroyed or rendered useless by flood or diluvion. All sailáb cultivation is annually assessed at one village-rate, only on the acreage cropped.

'In JHANG some of the villages are on the system of the Kachchí of Dera Ismaíl Khán; others on the Multán system. In other villages, again, the wells are all assessed, and rates (with some allowance for the first year) are fixed for new wells made or disused ones restored; but it is understood that the assessment will be dropped when a well ceases to work altogether. Notice is not taken of variations in area (the rates allow for that) as long as the well works at all.

'In MONTGOMERY, the system as sanctioned in 1887, contemplates that cultivation pays at an uniform rate of R. 1 per acre, except that new cultivation is allowed to pay at one-half rates for the first two years. The area is measured at each harvest; no charge is made for land not sown, or on which the crop has wholly failed. Where the failure is partial, the area is measured and charged, but a reduction as may be needed, is made in the total demanded. When a new *well* is made, the area is allowed half-rates for five years, and a *restored* well for two years.

'In KARNÁL (one of the dry Delhi districts where cycles of dry years often recur)[1], the arrangement has reference to the areas watered by wells. The area is assessed at a dry rate of

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[1] See review by Financial Commissioner of the Assessment Report of the Indri Pargana.

R. 1 per acre; and to this is added a *lump-sum* for each well (irrigation source), if there is one. This is not calculated at so much per acre, because no well permanently waters a given number of acres; but an average acreage watered is calculated, and a lump-sum per well added on this basis. It was calculated that about thirteen acres was a fair average for a well. The dry rate being R. 1, the wet rate, if charged per acre, would be about R. 2,6; so that the lump-sum is made up by multiplying the difference over the average acreage—thus thirteen acres × R. 1.3 gives R. 14.7 as the lump assessment *per* well.

'In SIRSÁ the system contemplates a low rate on all culturable land for its value as jungle; and when it bears crops it is measured and additional rates taken, as fixed for the different crops. Differences of amount of crop are not taken into account, but if a crop is very poor only half the rates are levied. Certain allowances are also made for new wells constructed under a "protective lease" (or certificate of improvement), and for newly-broken-up land.

'In GURDÁSPUR there are villages lying along the great Káhnuwáṅ "jhíl" or swamp, and in certain years the water rises and submerges the lands; these are therefore fluctuating. The system here simply is that certain rates being fixed for crops of different kinds, only the land which has borne these crops, is charged on annual measurement.

'A similar system prevails in GURGÁOṄ and DELHI (round the swamps or jhíls called Kotila and Najafgarh).'

There is some little complication in the revenue accounts as to the amount to be shown in the 'Revenue Roll' as 'fluctuating.' This is a detail which I cannot go into. It will be observed that there is nothing resembling the Ajmer fluctuating system (see page 361).

The different systems in the Panjáb have been often modified from time to time. In principle they all consist—

(A) of a lump-sum of 'abiána' levied on each well or jhalár, as long as it works;

(B) a rate on actual cultivation;

(C) with or without a small fixed assessment on the land in its waste aspect, for its value as grazing-ground.

§ 24. *Final Steps in Assessment.*

On receipt of orders on the Revenue Rate or Assessment Report, the Settlement Officer prepares a general statement for each *tahsíl*, showing details of the area of each estate, its present assessment, and the new assessment[1]. This he announces, and then submits the statement for formal sanction, with such brief explanations in the column of 'Remarks' as may be needed—i.e. where the village total differs by more than 20 *per cent.* from that which calculation at the sanctioned central or average rates would give.

§ 25. *Internal Distribution of Assessment.*

The revenue-theory of the system is, as the student is aware, that each 'mahál' or estate is assessed with a lump-sum of revenue, for which the owners of the estate are jointly and severally liable; but it is no less a matter of importance, in view of that care for individual rights of all classes which also marks the system, that the total assessment should be distributed properly over the holdings; each landowner, of whatever class, being made to bear his just share *according to the tenure*—i.e. according to ancestral shares, or well-shares, or according to area in possession—whatever the customary principle of the village co-sharing is. The operation of distribution is here, as elsewhere, called 'báchh,' and is provided for by law. It is done by the people themselves, under the guidance of the Settlement Officer: statements are drawn out showing every one's burden, and how tenants also pay. The shares thus arranged will afterwards be entered in the *jamabandí* and other records. I may take occasion to mention that circumstances (especially loss of land by diluvion) may make it desirable to *re*-distribute the revenue-burden during the currency of the Settlement. The Act

Act XVII of 1887, sec. 56.

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[1] Before doing so he has also to check the village lists of revenue-free grants and of the 'protective leases' (i.e. certificates protecting makers of improvements against any enhancement on account of their work); the list of improvements which are exempt from causing enhancement, but for which leases or certificates have not yet been issued; also the lists of gardens, &c., for which remission of revenue is allowed.

Sec. 56 (2). Part II, chs. IV, V. allows this to be done, 'by order of the Collector,' for any 'sufficient reason'; the Rules also give details on the subject[1].

§ 26. *Instalments of Revenue.*

At the time of making the revenue-distribution, it may be also necessary to prescribe the *instalments* by which the revenue is paid and the dates of paying—so much after the spring (rabí' or hári) harvest is gathered, and so much after the autumn (kharíf or sáwaní).

As Section 28 of the Financial Commissioner's *Circular* (Land-Revenue), No. 30, is quite explicit on this subject, it is sufficient to refer to it.

Part II, ch. V. 55-7. The Rules also deal with the method of preparing and publishing the record of distribution, and should be consulted.

§ 27. *Revenue Assignments.—Assessment of lapsed Assignments.*

Owing to the historical circumstances of the Panjáb, a very large number of old chiefs' families, and religious persons and bodies, have received remissions of land-revenue on their own lands, or assignments of the revenue of land not generally belonging to them, or grants of land revenue-free. At annexation, the principle was laid down that all such grants ceased, as far as the old authority for them went; and instructions were issued for the examination of all cases, and the issue of new grants or deeds emanating from the British Government; and, in future, it was ordered, the existence of such a grant would be the only authority for the continuance of the favour.

The whole subject, including the rules under which the old grants were examined and confirmed, wholly or partially, has been exhaustively treated in the *Consolidated Circulars* (Land-Revenue, No. 37).

A considerable portion of the rules is occupied by instructions as to the rule of succession to grants, on the death of the existing holder, including the question of permitting adoption. The head or section D (p. 342) deals with the question of submitting proposals for continuing, in whole or part, such grants as were originally only for life or lives. Lands subject to assignment are assessed like any others[1], and the grantees may be called on to pay the cost (or rather a part of the cost) of assessment.

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[1] And see *F. C. Consol. Cir*, No. 30, §§ 28, 29. For *re*-distribution see the same Cir. § 34.

See Act XVII of 1887, sec. 148 (1)

It will be observed that the terms mu'áfí and mu'áfídár are used generally, including (i.e.) both jágírs and mu'áfís.

When influential landholders are allowed small portions of their land revenue-free, as a reward for general service, the grant is spoken of as ''inám' (see Financial Commissioner's *Consol. Circular*, No. 39).

At Settlement, the revision of the list of assignments is an important duty *(Circ.* No. 39, § 32). Grants which have expired or lapsed may be at once resumed; but if the Settlement Officer thinks some continuance desirable, he may report the case for sanction.

When a grant has been resumed, there arises the important question with whom the Settlement is to be made. I do not propose to repeat here what is plainly and succinctly stated in the *Circular* above quoted (§ 38 et seq.). In principle, if the heirs of the ex-grantee claim the Settlement, they have to show that their connection with the land was of a proprietary character *(Circular,* § 54). If so, they may have a Settlement; or it may be that the ex-mu'áfídár, without being proprietor, has yet obtained a kind of connection which may entitle him to remain as an occupancy-tenant, or to have a sub-Settlement which protects him for the term of Settlement in paying a limited sum. The Act merely provides that the Settlement is to be 'with the proprietor,' leaving it to be determined, as a question of fact, who is the proprietor.

Sec. 61.

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[1] For obvious statistical reasons, as well as in case of lapse, so as to avoid a special re-assessment. Moreover, the assignee, though not called on to pay the assessment or being allowed to take it for his own benefit, may have to pay certain rates which are calculated with reference to the Land-Revenue assessment.

§ 28. *Cesses and Local Rates.*

Act XVII of 1887, sec. 29, and definitive clause (9).

Besides the land-revenue, certain cesses are levied by Government. One called the 'Village Officer's Cess' is levied under the Land-Revenue Act, to pay for the salaries of patwárís, and for the headmen's 'pachotra,' or 5 per cent. allowance on the amount of the revenue. There is also the 'local rate' for schools and roads and postal expenses, levied under a special Act. These rates are indicated in the assessment papers separately from the revenue, so that it can at once be seen for any holding, that the revenue is so much and the cesses (siwáí or ḥubúb) so much. In collecting the revenue[1], the lambardárs have to pay into the treasury all the revenue and cesses, except their own allowance, which they retain and distribute. Patwárís are paid from the tahsíl.

Act XX of 1883, secs. 5, 6.

Detailed instructions about 'cesses,' as described in this and the following paragraph, must be looked for in the Financial Commissioner's *Consol. Circular* (Land-Revenue), No. 36.

§ 29. *Proprietary-Dues or Village-Cesses.*

See Act XVII of 1887, definitive clause (10).

There are also certain village-cesses, leviable in some places, by the proprietors on non-proprietors, traders, and artizans. These have nothing to do with the Government land-revenue, or rates and cesses, and must not be confused with the above. They are levied by custom, and therefore are mentioned in the Act and Rules. The right to levy them (under various names in different districts) is often the subject of dispute in court, one or other class claiming exemption or denying the custom altogether. Probably the 'wájib-ul-'arz' will deal with the subject, or there will be a judicial decision of some former date. Such cesses are the 'Thána-paṭṭí,' 'Aṭráfí,' 'Haq-búhá' (a charge on houses, or rather house-sites), or 'Dharat' or 'Kúri-kamíní' (certain demands for manure, or an equivalent cash-payment). A list of these cesses is to be made out and filed with the record. The village 'malba,' or expenses falling on the community at large, are also levied and (on approval at the annual account) reimbursed to the *lambardár*, who incurred and paid them in the first instance[1].

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[1] As to the lambardár's duty in collecting and how he recovers from individual co-sharers, see the IVth chapter and the section dealing with the headman's duty.

Part II, ch. XII, Rule 92.

§ 30. *The Persons Settled with.*

The Act declares that the entire estate, and the landowners jointly and severally, are liable for the revenue; but this liability may be specially limited by order of Government. When there are both inferior and superior landowners in the same estate, it rests with the Financial Commissioner to determine by rule or by special order, whether one or the other (or each in certain proportion) is to be liable. As a rule, in the absence of any special order, the inferior or actual landowner is settled with. This is in general the policy; we have, in fact, in the Panjáb, comparatively few 'taluqdárí' or 'a'lá málik' Settlements; these superior rights are often provided for by a *cash allowance;* the management and direct interest in the land being in the hands of the (actual) proprietary body.

Act XVII of 1887, sec. 61.

Part II, ch. VII, Rule 67.

It will be observed that the Act says nothing about any formal document being executed by the proprietors (the 'qabúliyat' or the 'darkhwást-málguzárí' of the older law, or of other provinces) signed by the landlord, or by the lambardár on behalf of the co-sharers. Such a form is now thought unnecessary.

§ 31. *Refusal to engage.*

If the proprietors (or a certain proportion of them specified in the Act) decline to accept the assessment, they must, within ninety days of its announcement, signify their refusal; and supposing that they have not gained any modification of terms by their petition under section

Act XVII of 1887, sec. 55.

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[1] As to the 'malba,' the amount to which it is allowed to run, see Appendix D. to the *Circular*, No. 36, already alluded to.

52, and any appeal that may be open to them, their refusal will be followed by the Collector taking charge of the estate for a term, and making arrangements with other people, as if the Settlement had been annulled. In that case the landowners are, as usual, granted an allowance (to be fixed by the Financial Commissioner) of not less than 5 or more than 10 per cent. of the net income realized by Government. It is needless, perhaps, to remark that such a thing as a refusal of a modern Settlement is practically unheard of.

§ 32. *Concluding Observations—Lightness of Assessment.*

In concluding this subject of assessment, I ought to remark that, while the policy has always been to keep the assessments fairly light, it is necessary that they should be adequate, not only on general grounds, but for a special reason. The result of the historical tribal changes on the frontier, and of the Mussulman and Sikh rule in the central and cis-Sutlej districts, has been to leave a number of chiefs, whose rights have been protected or compensated for by the grant of assignments of land-revenue called 'jágírs.' No direct military or other service is now required[1], but indirect service is not only required but cheerfully rendered. Moreover, many 'jágírdárs' hold the assignment of the revenue in reward for valuable political services rendered in the past, or as members of honourable families who had rendered such service, and whom it is now desired to support, especially with reference to the good influence such persons can exercise in their districts. The assessment must necessarily be such as will provide fairly for these grantees. In the *Administration Report* for 1875–76, it is remarked:—

'It is of course impracticable, even if it were just, to assess *grants* at a higher rate than lands which pay revenue to

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[1] In the cis-Sutlej jágírs, where a defined service was part of the terms of the right, the holders have now been allowed to *commute* the liability by paying a small tax.

Government; for the first result of so questionable a measure would be discord between the cultivators and the assignee of the revenue.'

Consequently, assessments cannot be permitted to be inadequate anywhere: the rates must be as uniform as possible. Speaking of the 'jágírdárs,' the Report says:—

'Their power is great for good and evil, according as they are contented or the reverse. Many of them do good service to the State as honorary magistrates or as chiefs of the border clans; but their income being wholly or mainly derived from the share of the land-revenue assigned to them, must rise or fall with the Government demand: if that is unduly light, they, not the State, are the sufferers, and, in His Honour's opinion, more political danger is to be apprehended from a native aristocracy impoverished by inadequate assessments, than from a thriving peasantry called upon to pay a moderate and equitable demand.

In 1872-73, it appeared that out of a land-revenue of R. 1,88,65,063, a portion, amounting to about one-sixth, was assigned to 129,935 individuals or institutions; and of the amount so assigned, more than one-half was assigned in perpetuity.

§ 33. *Settlement Statistics.*

The actual current assessment of 1886 was R. 1,92,60,294 for the province. The cost of Settlements, stated in terms of a percentage on one year's revenue, was, in the Settlements made between 1862 and 1875, about 36½ per cent. In the more elaborate Settlements between 1872 and 1880 it was 60 per cent.; but again, with improved records and machinery, between 1881 and 1885 the cost was reduced to a little over 49 per cent.; while the result of the operations gave a return of 33·4 per cent. on the outlay, so that the cost will be recovered in a very few years by the increased assessment.

The general average rates of land-revenue are[1]:—

	R.	a.	p.
Per acre of the entire culturable area	0	7	3
Per acre of the cultivated area	0	15	5
Per head of adult male cultivator	5	10	4
Per head of total population	1	0	4

The following list may also be useful, showing the incidence of land-revenue on *cultivated* land per acre:—

Heaviest assessed.									Lightest assessed.								
I.			II.			III.			I.			II.			III.		
R.	a.	p.	R.	a.	p.	R.	a.	p.	R.	a.	p.	R.	a.	p.	R.	a.	p.
1	15	9	1	15	3	1	9	11	0	7	3	0	5	10	0	5	3

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[1] Return furnished by the Director of Agriculture and Land Records.

CHAPTER II.

THE LAND-TENURES.

SECTION I.—GENERAL CONSIDERATIONS.

§ 1. *Prevalence of Joint-village Tenures.*

IN the Panjáb, no less than the North-Western Provinces, we may consider the tenures (1) either from the point of view of the relation to Government, as revenue-paying or revenue-free; or (2) with reference to the number of interests intervening between the actual cultivator and the Government; or we may regard the tenures (3) from the point of view of their intrinsic peculiarities.

The (1) and (2) points of view are taken in the section on Service and Revenue-free tenures, and in that which describes cases of a superior and an inferior interest, both of the proprietary order. But what attracts attention most throughout the Panjáb, is the prevalence of village communities, and the fact that they are mostly strong, well preserved, and the greater part of them of the type which I have distinguished as the 'joint or landlord' type, and which more appropriately than any other can be called 'communities.' By these phrases it is desired to indicate that the village owners, whatever their origin, have a strong sense that they, as a body (whether actually enjoying the lands in severalty, or still remaining wholly or partly undivided), have the landlord's right over the whole area of the village, arable and waste alike.

And this Province presents to some extent a contrast with the state of things found in the North-Western Provinces and Oudh. In these places we argued that the earliest villages of which we have any evidence, consisted of groups of cultivators, acknowledging, indeed, a certain bond resulting from propinquity, the employment of a common body of village artizans, and the submission to a common headman, but otherwise claiming no joint interest: each family owned the fields which it cultivated, or perhaps had cleared from the primeval jungle. Conquering kings and chiefs with their armies, then established their government; and then it was that in various ways—by grant, or by the usurpation of higher caste families, and ultimately by the disruption and partition of rulers' estates—individuals or families gained a landlord position in and over villages, either here and there, or over continuous areas. In time, the descendants of these became a numerous body, claiming the whole village as their own—forming, in short, the 'zamíndárí,' 'pattídárí,' and other classes of village landlord communities known to our text-books. In most cases, therefore, the joint or landlord villages (where they were not new foundations or the result of expansion from original centres), were described as a *growth over* villages that were already in existence and in the *raiyatwárí* form. In the North-Western Provinces indeed, in a very large number of what are now regular 'communities,' the body can be traced to an origin no more ancient than that of the auction-purchaser or revenue-farmer, who gained a footing in the days of our first attempts at revenue-management about the beginning of the century; but still a large number possess a proprietary body derived (in the way above stated) from some early ruling, or conquering, or marauding chief.

In the Panjáb, which had not come under British rule till the days of revenue-farming and harsh sale laws had passed away for ever, it is only occasionally (and then always dating back to Sikh or Mussulman times) that the village owners are representatives of landlords of this class.

§ 2. *Special origin of Joint-villages.*

Not only so, but as regards the province generally, the evidence does not point to a growth of landlord bodies *over* earlier non-landlord groups. The joint-village of the Panjáb plains is not occasional—like the 'shared' villages of Bombay; it occurs over the whole country, and seems to be the result of an occupation by special tribes. Indeed, it may be suggested that the reason why the first Aryan settlers avoided the Panjáb plains, and settled so far east as the Jamná[1], was, that the Panjáb had already begun to be peopled by those other tribes (chiefly Jats or Gújars, in the Central districts). Whatever the truth as to this may be, the tribes appear to have come in sufficient force to occupy large areas, or to form, by multiplication in the course of time, a complete network of villages held by tribesmen who, being conquerors, left to their descendants that joint claim to their several locations, which is necessary to the constitution of the 'landlord' village. If we look at any tribal map of a Central Panjáb district, though time, and the effect of wars, feuds, and subsequent conquests, have much 'honey-combed' and broken up the original areas, it is impossible not to see what large territories 'Jats,' 'Gújars,' and other great tribes have occupied[2]. We may safely conclude that all those tribes, certainly had and still have, the 'family' idea of property—the joint succession, and the same feeling of superiority which accompany the 'landlord' claim over village-allotments. If this had not been the case, we must surely have found traces of fundamentally new varieties of land customs, which we do not find.

This much we may safely say: the rest we must leave to the antiquarians to discuss. In what order of time these immigrations occurred, and what relations arose, if any, between our Panjáb Jat and Gújar tribes and those tribes which (for convenience) I have called Dravidian, represented by the Bhár, the Gond, the Koch, and other tribes of Central, Northern-Central, and Southern India, as well as with the Aryans; these are interesting questions, but beyond our present scope. What we know, or may be fairly said to know, is, that most probably there was a *series* of immigrations and invasions from the North-West, some preceding, some following, the Aryan. When the Aryans came, it is certain that in Central India, Oudh, and other parts, 'Dravidian' tribes had already formed organized kingdoms, such as I have described in Vol. I. Ch. IV. The Aryans did not displace these easily, or indeed at all. Sometimes the Dravidian conquered; but in the end, fully as much by policy and alliance as by conquest, the two races fused, and Aryan ideas of religion and social forms were adopted, as well as a uniform system of Government and land-administration. Were any of these races of the same 'period' or of the same ethnic origin as the Panjáb tribes? We know from Greek writers that in Alexander's time (fourth century B.C.) there were in the plains of the North Panjáb a great people called Takkás or Tákshakas, and in the South, Malli, Cathœi, and Oxydraceæ—names we can only partially now connect with existing tribal names. The Takkás appear to have been snake-worshippers (indeed, the Sanskrit Tákshaka means 'snake'), and in this resemble the Central Indian tribes. Mr. Hewitt suggests that they were Dravidians, and seems to connect them with the pre-Aryan Gonds of Central India. Sir W. Hunter calls them Scythian, and says they came from the North[1]. At the same time, the Aryans did settle in the Himaláya, though not in the plains, and we find a (real or artificial) Rájput holding a territory (close to the hills), the Porus (=Purushá), who fought with Alexander. Whatever the order, and whatever the date, of the arrival of the Central Panjáb tribes, it is probable that they soon became acquainted with wandering Brahman emissaries, and accepted Brahmanic teaching to some extent. That is why we find, besides the great tribes of Jats and Gújars, a number of smaller (and, doubtless, mixed) castes.

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[1] See vol. i. Chap. IV. p. 122, *note*.

[2] See for example the map of Gujrát at p. 671 post.

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[1] See Hunter's 'India' (*Imp. Gaz.* vol. vi. p. 184) and authorities quoted. The Takkás are said to have originated the 'Landa' character, still used (in various forms) by all village shop-keepers in their account-books. The character much resembles the letters seen on 'Indo-Scythian' coins.

Where we find large areas of 'Rájput' villages in the plains, it is either in the South-East, near the original Aryan settlement about Delhi, or locally, as a consequence of much later movements, which will be described presently.

It has been suggested[1] that 'Rájput' (meaning 'sons of the king') is not an Aryan—or any real tribal—name, but was adopted by all tribes or clans when they succeeded in getting the rule or the leading position. I think, however, it is much more probable, on the evidence, that there were later colonies of true Aryan (Kshatriya) Rájputs, and that, as they mingled with other tribes, those who were the most successful, and who adopted Hindu customs, observed strict caste ideals, and kept themselves apart, *became* Rájputs. There must have been the original, or there would not have been the copy.

And tribes that were, or became Rájput, might again sink and be called Jat. Mr. Ibbetson has pointed out how difficult it is to draw any line between the Rájput and the Jat. The fact seems to be that some Jats are original tribes (as they themselves traditionally assert), and others are clans who lost caste (as they also state) by adopting the 'karéwá,' or marriage of widows[2], and other irregular customs, which were repudiated by the stricter castes.

Whatever may be the real origin and history of Jats, it is a practical matter to notice that the short *a* of the Panjábí 'Jat' becomes long as we go towards the South-East[3]. In the Gurgáoṅ district, both Jats and Játs may be found, and they appear to be physically different. In Sindh, again, the Jat differs from his tribal namesake in the Panjáb, and his 'Jatkí' dialect is also not the Panjábí of the Central Panjáb Jats.

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[1] See Ibbetson's *Outlines of Panjáb Ethnology*, p. 219, and the quotation at p. 221.

[2] In many tribes in the Panjáb, the brother takes a deceased brother's widow, after the manner of the Israelites, and regards it as his right.

[3] The Panjábi often shortens the a : thus 'akkí' = áṅk, the eye ; kam = kám, work.

'Throughout the Delhi territory and the Panjáb proper, up to the Indus,' writes Mr. Tupper, 'the Jats are spread in great numbers all over the country. At the last census they reached the total of 2,187,490—being chiefly "Hindu" and "Sikh" towards the east, and Muhammadan westwards. Wherever Jats are to be found, there tribal influence and kinship are still at work[1].'

§ 3. *The Frontier District Villages.*

So much regarding the greater tribes of the Central and Western Panjáb[2]. On the North-West frontier, we have another case of uniformly landlord villages, founded by other tribes from the north: these adopted the Muhammadan faith; and, what is specially interesting—because it brings their institutions more within reach of historical observation—they occupied the districts within the last seven hundred years, some of them as recently as the sixteenth century. These tribes invariably at once divided the land and exercised a 'landlord' right over the entire area occupied. Sometimes they formed groups, much larger than villages; instances will come to our notice of great areas of thousands of acres held on a multitude of little shares, without any (original) *village* division.

It is remarkable that in the case of Jat and Gújar locations we can rarely or never trace kingdoms through stages of disruption and division till the scattered and reduced remains of the once royal house appear as landlords of petty (village) estates[3]. I must admit it to be possible that, in some cases, there may have been Rájás and chiefs, and that, the present villages are held by descendants of such overlords. On the other hand, we must bear in mind what the Greek writers have said about the 'republican' constitution of the tribes, and believe that generally, at least, there were no Rájás, but the tribes consisted of equal families, governed by councils or 'pancháyats.' (See Vol. I. p. 140.)

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[1] *Customary Law*, vol. ii. p. 36. There are some interesting remarks on Jats in Mr. Fanshawe's *Rohtak S. R.*, pp. 21, 22. See also the paragraph in this chapter on Rohtak, post.

[2] It may be convenient here to state that 'tribe' is commonly indicated in the Panjáb, by the (familiarized) Arabic word 'qaum,' the clan or subdivision of the tribe is 'gòt.'

[3] Where we can do so, is in the case of certain conquest-settlements of a much later date than the original Jat immigration.

§ 4. *Other origins of Village Tenure.*

Lastly, a few words must be added about villages which owe their origin, not to the Jat, Gújar, and Frontier tribal settlements, but to such special foundation as I have already alluded to. We shall find instances of adventurers of the Aryan (Rájput) or mixed Aryan races who, having first settled in Northern-Central India and the Gangetic plain, finding no room at home, or otherwise actuated by a love of adventure, returned on their steps and settled in the Panjáb. In the Gujrát district, there was once a kingdom of Chíb Rájputs formed in this way, and the present Chíb villages are the relics and fragments of that rule[1]. Once more, I may remark that the Rájput race is proverbially prolific, and in many cases where whole groups of villages of one clan are now found, their origin is due to a single adventurer, or two or three brothers who obtained small estates in the thinly-inhabited country. These probably gave birth to a dozen or more of stalwart sons, who soon founded new villages; and now their numerous posterity hold quite an appreciable extent of country.

§ 5. *The South-East Frontier.—Summary.*

There is yet another group of village formations to be noticed. It occurs in the strip of territory along the South-East frontier. Here we find many (and recent) cases of *voluntarily-associated bodies of colonists*, forming villages; most of them within the century. Whether these villages (now joint-villages under our revenue-system) were really and originally joint, is more doubtful. I confess I find it difficult to feel satisfied one way or the other.

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[1] Further on will be found a map showing the distribution of tribes in Gujrát; and special illustrations of the text will be found in the district notes which follow.

If now we briefly summarize a comparison between the North-Western Provinces and the Panjáb, it will appear that—

(1) We have an almost total absence of the class of villages owned by descendants of the manager, revenue-farmer, or auction-purchaser of a century back;

(2) we cannot now trace any general earlier existence of villages which (like those described in *Manu*) were aggregates of separate cultivators, or observe the upgrowth of landlord-bodies over them. Both the (1) North-West frontier, and (2) Central districts, exhibit tribal joint (and landlord) villages from the first. We have also (3) a special class of *colony* villages in the South-East.

§ 6. *Cases where Villages were not formed.*

It is worthy of remark that, in the southern river-tracts, settlers did not form villages at all; this was probably due to the difficulties of cultivation. In Multán, we find that only small bodies or family-groups aggregate together —enough to sink a well or two, and cultivate the land around it. It is our own revenue-system that has grouped several of these 'wells' together, and formed a village, by the grant to them in common, of the surrounding waste.

Again, in the *Himalayan districts* local circumstances invited the settlers rather to form isolated groups of cultivation; and, as in the Káṅgra district, our own Settlement aggregated the hamlets into 'circuits' or villages, and gave them a joint interest in the waste, which they never claimed before. As usual, they appear in the revenue records as 'bháiáchárá' villages.

§ 7. *Development of Great Landlords.*

It is worth while calling attention to the absence of great landlords in the Panjáb. It might be thought that where there was such a strong sense of conquering superiority—and in *some* tribes at least, this must have been connected with a strongly felt loyalty to a chief,—there would also be a tendency for the chiefs of tribes and sections to develop into individual landlords of great areas, instead of distributing the landlord-claim, so to speak, among all grades in the tribe or clan. The later tribes of the frontier have their chiefs—Kh͟án, Malik, Tumándár, &c.; but even they rarely become great landlords in the Bengal sense. Among the Gújar, Jat, and other similar tribes, we have, now, at any rate, no trace of Rájás and chiefs. It may be (as I suggested) *possible* that some of the villages represent the fragments of a 'Ráj,' being owned by bodies of descendants whose forefathers were sons of a long forgotten Rájá of the adjacent country. But one cause of the non-development of great territorial landlords is evident. Neither the Muhammadan empire nor the Pathán conquerors, nor the later Sikh rulers, ever allowed the local chiefs such power as belonged to the Taluqdár of Oudh or the Zamíndár of Bengal; consequently, they never grew into landlords. They either remained as chiefs, with State grants (jágírs), or disappeared, their descendants becoming holders of villages, like any other proprietors. The character of the tribesmen must also be taken into account: as a rule (and this is true of the frontier tribes as well as the earlier Jats), they were independent, and very jealous of any unequal sharing. It is quite true that, had it not been for a strong feeling for rank and grade (in virtue of which it is that chiefs exist at all), it may be doubted whether the tribal families would have had that sense of union, and the proud feeling of proprietorship and superiority to other inhabitants, which enabled them to bear up against, or ultimately recover from, the 'levelling' influence of Sikh rule and Pathán devastation. But that feeling did not so act as to enable the chiefs to presume on their position. Even in tribes where the chiefs had great influence, neither the Government system nor the temper of the subjects, enabled them to become 'Zamíndárs.'

§ 8. *The Landlord-spirit in Village-Communities.*

It is also a fact that the 'conquerors' right' was felt by the whole body of the colonizing tribes, as much in the case of those which had (and still have) chiefs, as among those of the Central districts which are believed not to have had the same 'feudal' organization. The bodies who formed the village-groups, with so much idea of equality amongst themselves, had a full sense of superiority and of proprietorship in their allotment: their joint-claim is in no sense merely the product of Western law. It is quite certain, on the testimony of many Settlement Reports, that the 'proprietors' never place themselves on a level with the tribesmen they conquered, or with the dependants and cultivators they called in to aid them in bringing the land under cultivation. In later times, the Sikhs, caring only for their revenue, treated all classes alike: the 'proprietor' was no better off than the 'tenant'; but still the tribesman remembered his origin and the founding of his village, and claimed his rights when he had a chance, with anything but democratic tolerance[1].

In the Panjáb, everywhere, whether it is an Afg͟hán tribe, or a Gújar, Rájput, or Jat, Áwán, or Khokar family, that has established itself and divided into village-groups, there is undoubtedly a strong landlord feeling, a sense of proprietorship running throughout the boundaries of the estate —boundaries known by old tradition, and now defined by the British Settlement Officer; and that is perfectly consistent with the equally undoubted fact that old tenants who aided the founding, and inferiors who had helped to bear the burden of the Sikh imposts, were privileged persons, and certainly never regarded as without rights or claim to consideration. In making these and many following remarks, I assume that the reader has studied the General Chapter on Tenures, in Vol. I, otherwise he will, I fear, find them hardly intelligible.

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[1] For this reason I have avoided following those authors who have called the Panjáb tribes 'republican' or 'democratic.'

§ 9. *Résumé of the Origin of Villages.*

It may be convenient briefly to gather up in a short paragraph what is known of the origin of Panjáb villages. They will be found due to the following sources:—

(1) The conquest and settlement of great tribes like the Jat and Gújar, at a remote date.

(2) The later return and settlement of adventurers—Ráj-put and other small bodies of tribesmen, or single colonists—whose descendants have now multiplied and spread.

(3) The comparatively late immigration of tribes into the districts of the North-Western frontier.

(4) The establishment of bodies of associated colonists (South-East Panjáb).

(5) The aggregation, under our own Settlement Rules, of individual families of cultivators and settlers into villages.

§ 10. *Official Classification of Villages.*

It is unfortunate that the old classification of villages, which confuses under one or more common names so many essential differences, has been followed in the Panjáb.

I have already explained how these terms—'zamíndárí,' 'pattídárí,' and 'bháiáchárá'—came to be applied to discriminate certain differences in village constitution—differences which appeared to our earliest (and cursory) examination of these tenures as the main features to be noted. I had better repeat a brief explanation of the terms, to avoid a reference backwards. 'Zamíndárí' was really intended to apply to those cases in which a *single landlord* had been found, or had obtained the position by some means, over the village; and a large number, if not the majority, of such landlords were, in the North-Western Provinces, revenue-farmers and auction-purchasers[1]. In the Panjáb, as I have explained, that origin is rarely to be found. Still there are cases where, from one cause or another, a single person has become landlord.

In the course of a few years, such a landlord is commonly replaced by a more or less numerous body of sons and grandsons, who for a time enjoy the right undivided: and therefore the term 'zamíndárí' became subdivided into 'k͟hális' (simple), where there is still one individual landlord, and 'mushtarka' (joint), where there is a body of descendants enjoying rights as co-sharers.

In the same way, 'pattídárí' was meant to indicate, not merely that the family had divided the shares in the soil, but that the property was held, more or less closely in accord with the equal fractional shares of the law and custom of inheritance; if there was a scheme of equal sharing, but on some other principle than the inheritance-fractions, it was not a case of *pattídárí*. But now, in the Panjáb, the term is more loosely used to include a severalty holding on *any* scheme of shares, where those shares are really *parts* of what was once regarded as *one*.

The term 'bháiáchárá,' as first used in 1796, properly indicated a special variety of landlord village. The bháiáchárá was also strictly a *landlord* village; it was no fortuitous aggregate of cultivators holding each his own plot, without reference to any system of sharing. It was a village in which a peculiar mode of measuring and dividing the land took the place of the inheritance-shares—at least, as far as the *original distribution* was concerned[2]. In the North-Western Provinces, this strict signification was soon lost,—so much so, that I doubt whether every one will remember or acknowledge how the word was first used. 'Bháiáchárá' *now* means any form of village where possession is the measure of right, or where ancestral fractional shares were not respected in alloting the shares originally. As far as I know, the old or real bháiáchárá is rare in the Panjáb, though not at all unknown: most commonly villages called by this name, are estates in which ancestral shares have been forgotten or in which the shares go by 'ploughs' or by 'wells,' and not by ancestral fractions. In the Panjáb these latter appear to be much more numerous than they are in the North-West Provinces.

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[1] Or where a shared village was completely partitioned among individual sharers and formed several individual estates.

[2] I mean that the original allotment at founding, was by this special method. When the heirs of families inside the different lots come to succeed, they do so, *now*, according to inheritance shares.

The terms '*imperfect* pattídárí' and 'bháiáchárá' are still kept up. It is the merest accident, and a circumstance perfectly immaterial from the tenure point of view, that in dividing up lands for several enjoyment, convenience has suggested that a part of the land should remain joint. As a matter of fact, a large majority of the villages in time became divided, and oftener remained 'imperfect' than not. For instance, a portion of the estate is let out to tenants, and the practice is to collect the rents from this portion, and pay them at once to the headman for revenue. It will often happen if the land so kept is good (e.g. if it grows sugarcane), that the rents are sufficient to pay the entire revenue demand; and then the proprietary co-sharers have the divided holdings, each to himself without charge; or (if the rents above spoken of are not sufficient) subject only to such a moderate rateable contribution as is needed to make up the total revenue demand, together with cesses and village expenses. In such cases there is no object in dividing the common.

When therefore these terms—'zamíndárí,' 'pattídárí,' and 'bháiáchárá,' with the meaningless distinction of the two latter into 'imperfect' and 'perfect,' came to be imported into the Panjáb, they had not only their original crudity[1] but their meaning became still further modified—a circumstance generally overlooked; so that their original unsuitableness to tribal villages has been in no way lessened, if it has not been intensified. It is most earnestly to be hoped that some day, in the interests of science, a real census of villages—which could easily be taken—will furnish us with true data as to origin and the system of sharing which prevails.

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[1] See my remarks in the chapter on North-Western Provinces Tenures, pp. 104-108 ante.

§ 11. *Certain facts extracted from the Statistics.*

Bearing in mind the defects of classification spoken of, a certain number of facts may nevertheless be extracted from the official tables, which throw light on our subject. For this purpose I take the Tenure Return in the *Agricultural Statistics of British India for* 1886–87 (page 83), which is given for the Panjáb in a very condensed form. I also refer to the return prepared in the Panjáb in 1875–76 (*Famine Commission Report*, Vol. II. pp. 559–68)[1].

From these, we find only one great landlord estate (of 197 villages)—that of the Khattak chief in the Kohát district; another of thirteen villages (36,400 acres) is held by seven sharers. There are eighty-four estates of landlords of moderate size. Next, the tables show 1609 small 'zamíndárís' of single owners (*a*), of which 689 are shown as following the law of primogeniture, so that they will remain undivided (the greater part of these are in the Delhi, and Pesháwar, and Deraját divisions). These small zamíndárís are nearly all estates consisting of single villages, and so might have been shown as 'zamíndárí k͟hális' villages. The joint (zamíndárí mushtarka) villages (*b*) are shown as 3392; the 'shared' villages (*c*) held on ancestral *or customary* shares are 4088. The villages held on the measure of possession only (*d*) are 8568; and the villages, partly divided, and partly held in common, are (*e*) 16,972[2]—i.e. the large majority escapes classification:

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[1] This return uses 'pattidárí' for *both* 'ancestral' and 'customary' shares, and 'bháiáchárá' for holdings 'by possession' only, but doubtless includes all villages *called* by this name in the Settlement papers, whatever their intrinsic character.

[2] In the Imperial Return:—
(*a*) is given as 1324 villages.
(*b*) ,, 3384 ,,
(*c*) ,, 12,364 ,,
(*d*) ,, 18,508 ,,
(*c*) and (*d*) evidently include the partly-divided villages also.

all of them really belonging to one or other of the classes (c) and (d) but to *which* there is nothing to show; the mere accident that some of the land is undivided, is allowed to take the place of any further discrimination.

These figures, prepared for two years a decennium apart, are so far discrepant as seriously to vitiate inferences from them. The lapse of time may increase one class and diminish another; but the want of real principle of classification will always make such returns more or less uncertain.

As far as these figures can be trusted, it may be inferred from them that a very few of the tribal chiefs on the frontier have obtained large estates as landlords, that a few grantees and chiefs have acquired similar estates between the Sutlej and the Jamná; and a few here and there are scattered over most of the other districts.

The chief tribal families have retained a large number of villages, as the corparcenary owners of single villages or even parts of villages, and they have retained their ancestral or some other recognized *mode of sharing*—a fact always indicative of strength of union or else of superior origin, and in either case, of a strong 'landlord' feeling. The common rule is not to divide up completely, but to leave a portion of the estate in joint ownership.

The comparatively large number of villages in which possession is (now) the measure of right, is remarkable. In many cases, no doubt, we may conclude that shares once existed, but have been lost in the lapse of time, by sales and changes of fortune, and by the effects of the 'grinding' rule of the Sikhs, which levelled down differences, and compelled an equality of 'landlord' and inferior, to meet the burden imposed. But a large number of these villages are colonies planted in the last eighty or ninety years, where probably possession was always according to the ability of each man (the money, number of ploughs, servants, and sons or relatives each brought to the work). In these villages (held by possession) the returns do not enable us to distinguish the real differences. In some of them, it is doubtful, as I remarked before, whether we have a true joint constitution. We *may* have really a 'raiyatwárí' village without any bond of union; or the proprietors of the village (or of the section where several bodies are accidentally united, as is often the case) may have a strong landlord feeling over the whole area of their location, only that either from the first, each man took and kept what he could manage, or else, by the effect of sales, hard times, and other accidents, any original scheme of sharing has been lost and forgotten. In some cases we have a positive indication that a scheme of sharing once *did* exist, because it is still followed in dividing the profits of the common, or in other ways. The figures, then, so far illustrate and confirm the general remarks made. But they entirely fail to give us any insight into the really interesting details of tenure,—what villages are held on ancestral (inheritance) shares, and what by shares on some other principle, and what is the nature of the difference. How many villages now held in 'possession' have really once been shared on a system, and have lost the system wholly, or retained it partly—e.g. in dividing the profits of the common lands? What is the origin and history of those who have *never* had any system of shares? How many are modern colonies and re-foundations of villages? How many (if any) are only aggregates of cultivators, with no real landlord class in them?

§ 12. *Preservation of Communities.*

It remains to be noticed that, while the general tendency of the North-Western Settlement system is to preserve the village bodies, and while in the Panjáb, the Settlement has done this fully, and has even created villages, in some parts, combining detached holdings by granting a large area of valuable waste to be enjoyed by the body in common, still there is the inevitable tendency of modern times to pass from the stage of common (or rather family) ownership to complete individual right in severalty; and the frequent enmities that arise, and are notorious throughout our villages, are continuing causes of disintegration. Feuds and factions[1] (especially to the north of the Chináb) are well known to the criminal administration as a source of rioting and violent crime; and they naturally lead, or have long since led, to partitions. Among the less provident classes, debt, aided by the power of free alienation, is gradually transferring land from the old proprietor to the moneylender and the speculator of a non-agricultural caste: this affects the social order, because such purchasers must employ tenants. These, at present are commonly the old landowners themselves, who thus, under whatever circumstances of depression, still remain in their ancestral homes.

Still, the villages are held together by one institution, which there seems no great tendency to oppose from any quarter. Unlike the North-Western Provinces law, Panjáb local law does not allow of 'perfect' partition, except at Settlement and for special reasons, and with special sanction. 'Perfect' partition, as distinguished from 'imperfect,' indicates that form of division whereby not only is the separate enjoyment of fields and holdings secured, but the joint revenue responsibility is dissolved, and wholly separate 'estates' are created. I am aware that the joint responsibility is a shadowy thing, and is rarely enforced, because serious revenue default is so rare; but still it is a reality, and it undoubtedly, in my opinion, keeps the villages together. Besides this, the Local Laws Act recognizes a rather strong law of pre-emption. This is valuable, as the otherwise disintegrating effect of the free power of sale and mortgage can be counteracted by giving a member of the community, and of the section of the community, a preferential right to the bargain. The law is not free from difficulties in its application, and much trouble has sometimes to be taken in getting over fraudulent misrepresentation in the matter of the price actually fixed, or the true market value of the land; but, on the whole, as regards village lands, it works benefici-

Act IV of 1872, amended by XII of 1878.

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[1] So much so that there are local terms used—'dhar' and 'dhardári.'

ally[1]. Whether the power of self-government in social matters is on the decline, is an interesting question, but rather beyond my scope. I fear I must say it is. I doubt if the 'pancháyat,' which is the essence of a joint village, has really much influence in the majority of villages, though it has *some*, especially in caste questions, or offences against the united moral sense of the villagers. Questions of disputed boundary, inheritance, and the like, which would formerly have been settled by the pancháyat (or by a free fight) are now decided by law, being eagerly carried from court to court. The railway and the pleader have facilitated this appeal to the law[2]; while our fair assessments, and the value which land has acquired, furnish the means of keeping up the exciting game.

§ 13. *General Account of Tenures in 1872–73.*

The sketch of the Panjáb Tenures written by Mr. D. G. Barkley, C.S., for the *Administration Report*, 1872–73, has become almost classical, and is quite worthy of being reproduced *in extenso*. It runs as follows :—

'The great mass of the landed property in the Panjáb is held by small proprietors, who cultivate their own land in whole or in part. The chief characteristic of the tenure generally is, that these proprietors are associated together in village communities, having, to a greater or less extent, joint interests; and, under our system of cash payments, limited so as to secure a certain profit to the proprietors, jointly responsible for the payment of the revenue assessed upon the village lands. It is almost an invariable incident of the tenure, that if any of the proprietors wishes to sell his rights, or is obliged to part with them in order to satisfy demands upon him, the other members of the same community have a preferential right to purchase them at the same price as could be obtained from outsiders.

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[1] The right belongs, (1) to co-sharers in an undivided estate in order of relationship to the vendor; (2) in villages held on shares ancestral or modified, to co-sharers, in the order of relationship; (3) then to the whole pattí; then to any individual landholder in the pattí; (4) to any landholder in the village; (5) to occupancy-tenants on the land; and (lastly) to any occupancy-tenant in the village.

[2] I have elsewhere remarked on the use of the term 'community.' It is necessary to caution the reader against supposing that in joint villages there was ever any 'socialistic' or 'enjoyment in common' idea of property. Equal rights were what was regarded as important. But no doubt the settlement of all social questions and even questions of custom and law, was once effected within the community; and the power of the body to expel an obstinate offender against custom or the established order of things, was considerable. For though no power ever existed, formally to forfeit a man's share, things could be made so unpleasant for him that he would be obliged to abandon it.

'In some cases all the proprietors have an undivided interest in all the land belonging to the proprietary community,—in other words, all the land is in common, and what the proprietors themselves cultivate is held by them as tenants of the community. Their rights are regulated by their shares in the estate, both as regards the extent of the holdings they are entitled to cultivate and as regards the distribution of profits: and if the profits from land held by non-proprietary cultivators are not sufficient to pay the revenue and other charges, the balance would ordinarily be collected from the proprietors according to the same shares.

'It is, however, much more common for the proprietors to have their own separate holdings in the estate, and this separation may extend so far that there is no land susceptible of separate appropriation which is not the separate property of an individual or family. In an extreme case like this, the right of pre-emption and the joint responsibility for the revenue in case any of the individual proprietors should fail to meet the demand upon him, are almost the only ties which bind the community together. The separation, however, generally does not go so far. Often all the cultivated land is held in separate ownership, while the pasture, ponds, or tanks, &c., remain in common; in other cases, the land cultivated by tenants is the common property of the community, and it frequently happens that the village contains several well-known subdivisions, each with its own separate land, the whole of which may be held in common by the proprietors of the subdivision, or the whole may be held in severalty, or part in separate ownership and part in common.

'In those communities with partial or entire separation of proprietary title, the measure of the rights and liabilities of the proprietors varies very much. It sometimes depends solely upon original acquisition and the operation of the laws of inheritance; in other cases, definite shares in the land of a village or subdivision, different from those which would resul from the law of inheritance, have been established by custom in other cases, reference is made, not to shares in the land, bu to shares in a well or other source of irrigation; and there ar many cases in which no specified shares are acknowledged, bu the area in the separate possession of each proprietor is th sole measure of his interest. It is sometimes the case, however, that while the separate holdings do not correspond wit any recognized shares, such shares will be regarded in dividin the profits of common land, or in the partition of such land; and wells are generally held according to shares, even wher the title to the land depends exclusively on undisturbed possession.

'In some cases the separate holdings are not permanent in their character—a custom existing by which the lands separately held can be redistributed in order to redress inequalities which have grown up since the original division. Between the Indus and the Jamná this custom is rare, and is probably almost entirely confined to river villages, which are liable to suffer greatly from diluvion, and have little common land available for proprietors whose separate holdings are swept away. Even in river-villages, it is often the rule that the proprietor whose lands are swept away can claim nothing but to be relieved of his share of the liabilities of the village for revenue and other charges.

'Trans-Indus, however, in the tracts of country inhabited chiefly by Pathán population, periodical redistribution of holdings was by no means uncommon, and the same is stated to have been formerly the case in some of the villages of the Pathán iláqa of Chach (cis-Indus), in the Ráwalpindí District. The remarkable feature in the redistributions trans-Indus was that they were no mere adjustments of possession according to shares, but complete exchanges of property between one group of proprietors and another, followed by division among the proprietors of each group. Nor were they always confined to the proprietors of a single village. The tribe, and not the village, was in many cases the proprietary unit, and the exchange was effected at intervals of three, five, seven, ten, fifteen, or thirty years, between the proprietors residing in one village and those of a neighbouring village. In some cases the land only was exchanged; in others the exchange extended to the houses as well as the land. Since the country came under British rule, every opportunity has been taken to get rid of these periodical exchanges on a large scale by substituting final partitions or adjusting the revenue demand according to the value of the lands actually held by each village; but the custom is in a few cases still acted upon amongst the proprietors of the same village, though probably no cases remain in which it would be enforced between the proprietors of distinct villages.

'Throughout the greater part of the province the organization of the proprietors of land into village communities has existed from time immemorial, and is the work of the people themselves, and not the result of measures adopted either by our own or by previous Governments. Indeed, these communities have sometimes been strong enough to resist the payment of revenue to the Government of the day, and before our rule nothing was more common than for them to decide their disputes by petty wars against each other, instead of having recourse to any superior authority to settle them. But in some localities the present communities have been constituted from motives of convenience in the application of our system of settlement. Thus in the Simla hills and in the more mountainous portions of the Kangra district the present village communities consist of numerous small hamlets, each with its own group of fields and separate lands, and which had no bond of union until they were united for administrative purposes at the time of the Land-Revenue Settlement. In the Multán division, again, while regular village communities were frequently found in the fertile lands fringing the rivers, all trace of these disappeared where the cultivation was dependent on scattered wells beyond the influence of the river. Here the well was the true unit of property; but where the proprietors of several wells lived together for mutual protection, or their wells were sufficiently near to be conveniently included within one village boundary, the opportunity was taken to group them into village communities. The same course has been followed in some parts of the Deraját division, where small separate properties readily admitting of union were found. These arrangements were made possible by the circumstance that the village community system admits of any amount of separation of the property of the individual proprietors, and by care being taken that in the internal distribution of the revenue demand it should be duly adjusted with reference to the resources of the separate holdings. They also in general involved the making over in joint ownership to the proprietors of the separate holdings, of waste land situate within the new boundary, in which no private property has previously existed.

'In some cases the village communities, while holding and managing the land as proprietors, are bound to pay a quit-rent to superior proprietors under whom they hold. The Settlement is made according to circumstances, either with the superior proprietor, who collects the Government revenue as well as his quit-rent from the communities, or with the communities in actual possession of the land, who pay the land-revenue to Government and the quit-rent to the superior proprietor. In either case the amount which the superior proprietor is entitled to collect is determined at Settlement as well as the amount of the land-revenue demand.

'There are sometimes also proprietors holding lands within the estates of village communities, but who are not members of the communities, and are not entitled to share in the common profit, nor liable for anything more than the revenue of their own lands, the village charges ordinarily paid by proprietors, and the quit-rent, if any, payable to the proprietary body of the village. The most common examples of this class are the holders of plots at present or formerly revenue-free, in which the assignees were allowed to get proprietary possession in consequence of having planted gardens or made other improvements, or because they had other claims to consideration on the part of the village community. In the Rávalpindí division also, it was thought proper to record old-established tenants, who had never paid anything for the land they held, but their proportion of the land-revenue and village expenses, and had long paid direct to the Collectors of the revenue, but were not descended from the original proprietary body, as owners of their own holdings, while not participating in the common rights and liabilities of the proprietary community. Except in the Jihlam and Rávalpindí districts, where a small quit-rent was imposed, these inferior proprietors were not required to pay anything in excess of their proportion of the Government revenue and other village charges. In Gujrát, at the time of the first regular Settlement, this class held no less than 10 per cent. of the total cultivated area, and in Rávalpindí it paid 9 per cent. of the revenue. In Rávalpindí the persons recorded as proprietors of their own holdings only, were in some cases the representatives of the original proprietary body, jágírdárs having established proprietary rights over what were formerly the common lands of the village.

'In Multán and Muzaffargarh, and perhaps in some other districts in the south of the Panjáb, a class of proprietors distinct from the owners of the land is found under the name of Chakdár, Silandár, or Kasúrkhwár. These are the owners of wells, or occasionally of irrigation channels, constructed at their expense in land belonging to others. They possess hereditary and transferable rights, both in the well or irrigation channel and in the cultivation of the field irrigated from it. . . . They are generally entitled to arrange for the cultivation, paying a small fixed proportion of the produce to the proprietor, and being responsible for the Government revenue. Sometimes, however, the management of the property has been made over to the proprietor, who pays the Government revenue, and the Chakdár receives from him a fixed proportion of the produce called *haq kasúr*. Or a third party may manage the property, paying the Government revenue and the *haq kasúr*, out of which the Chakdár pays the proprietor's allowance.

'In Ráwalpindí also there is a small class of well-proprietors in the position of middlemen, paying cash-rent to the owner of the land and receiving a grain-rent from the cultivator.'

§ 14. *Panjáb.—Tenures classified.*

This able sketch is, however, not sufficiently detailed to enable me to adopt it for the entire satisfaction of the student's requirements in this chapter. We must therefore endeavour to fix on some plan by which we can look into the land-tenures a little more closely. Village-tenures are our main subject; other tenures, such as the revenue-free estates, and those which are sometimes called the 'double' or taluqdárí tenures, will be easily disposed of.

On the whole, a *geographical* distribution of our subject will, I think, be the best.

§ 15. *Division of the Country into Groups for Study.*

If, for instance, we start from the north-west frontier, we find the districts of Hazára, Pesháwar, Kohát, Bannú, and the Deraját[1], all marked by similar features—comparatively modern conquest by Muhammadan tribes (converts of a few centuries back).

This 'Frontier Tract,' as I call it, really extends down as far as the Salt Range, and includes the Ráwalpindí district. Of course, it is not sharply defined. When, for instance, we come to the south-western part of the frontier, we find ourselves approaching tenures closely resembling those of Sindh, and largely affected by those special customs which arise when cultivation is only possible on a strip of land in the vicinity of a river, and in which inundation-canals and wells (to support this somewhat precarious mode of irrigation) are the necessary requisites of agriculture. In other words, in one direction our frontier tract joins on with another marked tenure-zone,—that formed by the districts of Multán and Muzaffargarh, where peculiar customs of canal and well irrigation, and a frequent absence of village organization, are the distinctive features. This latter I have called the '*Southern River-country*.' If, again, we return to that part of the frontier tract which comes down as far as Jihlam and Sháhpur—the line of the 'Salt Range' hills—we shall find that the more distinctively northern Muhammadan tribes begin to disappear, and that we have more and more to do with Jats, Gújars, Rájput clans, and other tribes, such as inhabit the *Central region*, the latter including (generally) Gujrát, Gújránwála, Jhang, Montgomery, and Lahore, also Siálkot, Amritsar, Gúrdáspur, Hushyárpur, and Jálandhar.

The *cis-Sutlej* districts[2],—Fírozpur, Lúdiána, Ambála—

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[1] This plural term indicates the two districts—Dera (camp or halting-place) Ismail Khán and Dera Ghází Khán. The Deraját division (Commissionership) includes, with these two, the neighbouring districts, called Bannu and Muzaffargarh, four in all.

[2] This name is still retained in use; it points back to a time when the Sutlej was regarded as a sort of outer boundary, and the districts 'on this side' were so called with reference to the capital and to the bulk of the British dominions to the south-east of the

hardly form a distinct group, but as they have a few specialities, and are geographically distinct, it is convenient to separate them.

It is convenient also to separate the *Delhi districts* and the South-East frontier strip, partly for historical reasons, but also on account of some peculiarities of tenure.

Lastly, the hill districts—Kángrá and Kulu, to which I may add the Simla States (though they are foreign territory)—exhibit distinctive features. This division I call the *Himalayan States.*

I shall accordingly endeavour to give a *résumé* of the more important facts[1] regarding the tenures in the following order:—

(1) The North-West Frontier Tract.
(2) The Southern River-country.
(3) The Central districts.
(4) The cis-Sutlej districts.
(5) The Delhi districts, or South-East Frontier.
(6) The Himalayan States.

SECTION II.—THE NORTH-WEST FRONTIER TRACT.

§ 1. *General Features.*

The general features which distinguish the frontier districts are, that most of them are occupied chiefly by Muhammadan tribes[2]. These are of comparatively recent origin, coming, some of them before, some of them with, the different waves of Pathán and Afghán invasion; some are as late as the Mughal Empire.

They have a regular organization of chiefs, called by different names in different tribes. The Tumándár or the Malik is the greater or tribal chief, and the Khán or Arbáb the

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river. When Jálandhar and Kángra were acquired, they were called 'the trans-Sutlej' districts.

[1] My chief authorities being the various *S. Rs.* and *Gazetteers.*

[2] The tribes though Muhammadan, are mostly very ignorant of the regular legal system of the Muhammadan creed (especially of inheritance); and they invariably follow customs of their own (which they sometimes imagine and assert to be *the* Muhammadan law!) The exclusion of females wholly or to a limited extent (i. e. allowing a share till marriage) is a common feature.

sectional chief. It does not appear, as far as I can make out, whether these chiefs (as such) had separate demesnes or estates allotted to them.

But as far as any of the reports deal with the subject, it may be gathered that the chiefs were not in any sense landlords over the members of their own tribe; but they appear to have been allotted villages and lands of their own, as private estates—their tribal share as heads of families—and also to have had certain rights and perhaps grain or other dues paid them in virtue of their chiefship by all the villages of their own tribe.

We find, however, Jats in several of the districts, and Gújars and Rájputs also; and some of the now Muhammadan tribes are certainly of the same origin.

With so many different tribes all occupying limited areas, we naturally expect to find great differences in the *terms* used to describe tenures, shares, &c. In some cases it would appear that the same words have different, or somewhat different, meanings in different localities. Customs also differ in detail between tribe and tribe, while the main features are generally similar.

It is, perhaps, hardly surprising to find that in these tracts the *right by conquest* constitutes the strongest form of right; and it is spoken of, not by any term indicating the use of force, but by the term 'wirásat' or inheritance[1]. The same word, in another form, will be found in Kángrá and the Simla hills, and there also the origin of landed-right is in conquest, followed by the labour of founding villages and clearing the waste. The word is Arabic and indicates 'inheritance' simply. Possibly it may not have been used by the actual conquerors, but by their descendants, who *inherited* what they regarded as peculiarly their own, since it owed its origin to irresistible 'might,' which—in Oriental countries especially—is 'right.'

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[1] In the earlier tribes of the Central Panjáb, though, no doubt, the origin of their right is the same, the conquest was so long ago, that it is forgotten; the land-owners do not use 'wirásat' (or any similar term) as the general term for proprietary right; they use the Arabic term 'milkiyat.'

We shall presently notice that in Hazára, owing to circumstances, and also to the necessity imposed by the Sikh system, other persons, besides the descendants of the conquering tribes, held the tribal lands, and that they did so for so long and under such circumstances, that they invented a term to indicate what we should call their 'prescriptive' right or title. But this right was never confused with the 'wirásat' which belonged only to the conquering and superior families.

The conquerors, even when they were mere tribesmen holding a small subdivided lot which they were driven to cultivate with their own hands, never lost the sense of superiority and lordship; this it was that led to the distinction specially noticed in Ráwalpindí and Jihlam (but doubtless all over the northern portion of the province) between the 'sáhu' or gentry and the 'Jat' and other common cultivators, called here by that much-burdened term 'zamíndár'—common 'holder of land.' It was this feeling of martial superiority that enabled the families in villages to keep their proprietary right alive and claim it when the British land-settlement gave them the opportunity, after years of Sikh rule, under which every landholder was treated as equal, being regarded as a revenue-producing machine, and no one's rights in particular being much discriminated or cared for. Nor does this remark apply only to the frontier districts; a strong sense of proprietorship is the common characteristic (of course to a varying extent) of the land-owning families—some with less pretensions to 'gentility,' or to high origin—in Sháhpur, Gújránwála, Gujrát, and indeed in most districts, as far as the limits of the province: in Karnál, for instance, the Rájput proprietors have always successfully resisted the encroachments of the Mandál and other over-lords.

While speaking of the terms used to denote landed right, I may mention that the Afghán proprietary further distinguish their landholdings as 'daftar' (that which is inscribed in the roll).

§ 2. *Tribal Divisions of Land.*

The tribal allotment—the site of the conquest and settlement of the entire tribe—is generally known as the 'iláqa' ('daftar' among Afghán tribes). It may be compared with the taluqa (a word derived from the same root as iláqa), which indicates the portions of country allotted to the lordship of the different Sikh chiefs under their original constitution, and which afterwards were retained as local divisions for administrative purposes, when the confederacy fell under the power of Mahárájá Ranjít Singh.

The methods of dividing the ''iláqa' are various; but a regular division and subdivision are everywhere noticeable. Except in limited tracts where the local conditions specially invited such a course, we have no trace of a common holding and cultivation, and a general division of the harvest. I do not know whether such a stage may be inferred, but we have absolutely no *evidence* of it. The tribal holdings, here and elsewhere, invariably show either a regular system of allotment and division, or (in rare cases where land is abundant) each member taking what he wanted or could manage, without any particular system.

It is probable that the tribal 'wand' or division was made in the first instance by some noted or respected chief, and was regarded as unquestionable. The whole territory was usually first subdivided into smaller sections called 'tappa' or by other names. The 'tappa' was then—usually but not always—portioned off into 'villages': these are often distinguished as '*Khel*'—portions for a group of families probably forming a single minor branch of the tribe. The further division of the 'village' is usually the 'kandí' (which would be the 'tarf' or the 'pattí' of the Central Panjáb villages); and the individual lots are 'bákhra.' These terms are only local; and different ones occur in different districts.

§ 3. *Method of Allotment.*

The method of this partition was, however, peculiar. In order that each 'kandí' might have a suitable proportion of the different soils, good and bad alike, we do not find the 'kandis' allotted in compact blocks lying in one place; but first of all a 'vesh' (or wesh) was arranged. This word signifies in Kohát, both the blocks of the different soils (as discriminated by the chief, jirgá (council), or other authority making the division), and also the 'rotation' or periodical exchange of the holdings, of which we are next to speak.

A 'kandí' will have a certain proportion of its total area in one *vesh* and another in another within the general limits of the 'tappa' or 'iláqa'; and the individual shares (originally) consisted of plots scattered about through the different divisions.

§ 4. *Redistribution of Holdings.*

But even so, complete equality was not attained; and consequently it was a feature of these frontier tribal settlements, that in lands where the local circumstances did not render it undesirable or unnecessary, a periodical redistribution of holdings—everywhere called 'vesh' (or wesh)—was made. It at first extended even to the main sections of the tribe; and might be compared to two or more small states or countries changing territories. This feature was the first to fall into disuse for obvious reasons; but the habit of exchanging lands between villages and inside villages, lasted much longer; the latter is still practised in some cases. The redistribution took place after the lapse of five, ten, fifteen, or even twenty or thirty years. Peshâwar, I find it noticed, is one of the districts where the 'vesh' (a term I may now use without any attempted equivalent in English) was not confined to the holdings within the village, but originally applied to the 'k̲h̲el' areas also.

The custom of exchange is not wholly confined to the frontier districts; it depends greatly on the character of the soil; but traces of it in other districts enable us to say with probability that it was *one* of the early methods which characterised tribal settlements. That it indicates a communistic sense of property residing in the whole tribe, is sometimes taken for granted. But this seems to me doubtful, at least as the direct cause: if it were so, the rule ought equally to apply to cases where there was no inequality, or where special labour was required; but we *never*, as far as I am aware, can trace a custom of redistribution in such cases. The 'vesh' is not found to prevail where circumstances do not require it; for instance, in the 'dáman' or tract on the 'skirt' of the Sulaimán hills (Dera Ismáil Kh͟án) where the fields are cultivated by aid of the water (and its fertilizing mud-deposit) from the hill-torrents, and each field has to be laboriously embanked. Indirectly, I admit, it may indicate a sense of *tribal* ownership—the individual right is not yet so fixed, that the periodical redress of inequality is impossible.

§ 5. *Steps by which the 'Vesh' disappears.*

In other places, it is noticed that, besides the 'vesh' lands, certain plots were, on the ground of laborious clearing of the waste, or for some other reason, regarded as the 'qabza' or special possession of the holder, and were exempt from 'vesh.' This is a step towards permanent holdings. The next is when inequality begins to disappear, because long possession results in careful cultivation, and perhaps in making improvements. When this occurs, a party in the village object more and more to the 'vesh'; and it is first restricted in area, and the period deferred, till at last it is given up altogether. Finally came the British land-settlement, with its record-of-rights and maps; a 'wesh' cannot be kept up over the whole area without the trouble and expense of re-writing the records and perhaps making a new map each time the exchange occurs. This generally puts a finishing touch to the process of abandonment. The plan is, however, still retained in alluvial lands, where there may be gain or loss from the river action or change in the moisture of the soil, or other accident. The arrangement is then so natural that we notice it as a custom of landholding in other places, even where all other traces of an original tribal allotment have long disappeared.

§ 6. *Principle of Division.*

The principles of 'wand' or division of lots are naturally various: sometimes, we have a 'khulá-vesh' or 'mouth-partition,' by which everyone—man, woman, and child, is counted in the allotment; so that a father of a family would, in the combined lot, have an area suitable to his wants, while a single man, or a childless pair, would have a smaller area. Sometimes the allotment is by the shares resulting from the inheritance custom and the place in the pedigree table. Sometimes we have other forms of division. I notice in one place a division, according to which the share of a man (asámi) is reckoned at land for ten ploughturns (ghumáo), while that of a 'horseman' is half as much again (fifteen ghumáos). In one tribal 'iláqa' (iláqa Sohán) in Ráwalpindí, the same idea—of military rank determining the share—is also developed. Here each share is a 'horse,' and it is subdivided for family purposes into four 'sum' or hoofs.

In another place (Bóiṅ in the Hazára hills) the lot or holding is called 'dogí,' and each lot is subdivided for inheritance-shares, into four 'pair' or feet, and each 'pair' into four 'kharsandi' or toes[1]. But a very favourite form of dividing is by marking out the land into narrow strips sometimes not more than two feet wide, and appropriately called 'rassi,' 'líkhí,' &c. ('rope,' 'line').

§ 7. *Division in the vicinity of a River.*

Possibly the last-named sort of division originates near a river, and if so, it is a natural plan, and is observable not only on the frontier, but in other places also[1]. In the alluvial plain of the Indus above Attock (Ráwalpindí district), for instance, we find these strips arranged at right angles to the river, the breadth being measured by the length of a 'chuggá' or goad used in driving oxen. As soon as the region of the river moisture is passed, the blocks will often run quite in another form—perhaps transversely to the other lines,—so that the eye can at once tell where the river-land ends. In the tract spoken of, the division is made afresh every year, and an exchange takes place accordingly. An exactly similar division (though I believe without any redistribution) is to be found in Lúdiána district on the Sutlej[2], in what is called the lower Dháyá tract, between the actual river-alluvium and the high land.

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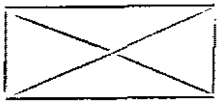
[1] Which is remarkable, as the cattle having the hoof cloven, the natural sub-share would be *two* to each 'pair' or hoof.

It is obvious that if the lots were made by blocks or strips *parallel* to the river, the holding nearest the stream would be extremely precarious all along its length, and so perhaps would the second; the third would be exceptionally good, because safe from erosion, but yet well moistened by percolation; while the lot farthest from the river would be equally dry and indifferent in yield. By the simple process of giving a strip at right angles to the river (up to the limit of the moister zone on either side) everyone gets the benefit or the danger alike, since each holding will represent equally a sort of gradation scale of advantage from the small frontage liable to erosion, through every degree of moistness and fertility, to the dry land beyond reach of river percolation.



The strips are not necessarily demarcated all along, but are marked out for cultivation by a simple expedient; a plough is driven diagonally across, as shown in the sketch.

§ 8. *Gradation of Rights in the Villages.*

In some cases we find the tribes exclusively peopling their entire iláqa, either having driven out the original inhabitants, or reduced them to an inferior position; but most probably they found the country unoccupied or abandoned. Then the families to whom the lands were assigned in lots, as well as the chiefs in their special holdings, became the proprietors; dependants and camp-followers, who always accompanied the tribe, though in limited numbers, being always settled as inferiors or tenants.

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[1] See for instance, the North-Western Provinces, at p. 142, ante.

[2] And so in certain low-caste Hindu (Saini) villages in the Jálandhar Doáb.

As regards the *chiefs*; in some cases, very rarely, the chief of the whole tribe (Malik, Tụmándár, &c.) has become the 'landlord' of a great estate; in others he has retained merely two or three or more villages. Much more frequently he has become (apart from his personal holding or family rights) the overlord of a certain area, by grant from the State: he takes part of the revenue as a 'jágírdár'; or he has a 'taluqdárí' allowance on the revenue, granted him in recognition of his superior position, and to secure his services and influence. A number of chiefs have, however, in the course of years, fallen out of count, or (possibly) their families have by partition dismembered an original estate; and now they will appear as proprietary bodies owning single villages. In this state they may sometimes be found to constitute a body of superior owners or ''alá-máliks' *over* the now existing proprietary village.

The process of super-imposition of one proprietary body over another is not uncommonly observed. The later body may have so reduced an earlier one as either to make the latter mere tenants; or, if it has not come to that, then the original landowners are in the position called 'málik-qabza'—in which, though regarded as owners of their individual holdings, they have no longer any claim to share in the profits or management of the whole village. This term was, I believe, invented in Ráwálpindí (or in the North Panjáb) to suit the circumstances there, resulting from the appropriation of villages by conquering chiefs and the local growth of leading families. Once in the village, the powerful new-comers assumed the right of dealing with the *waste*; and what with bringing this into cultivation for their own benefit, and also getting hold of many of the already cultivated acres, they soon reduced the rights of the original inhabitants to a shadow. As years passed away, this state of things became practically irreversible, except by the recognition of the peculiar rights spoken of.

The Sikh *régime* did a good deal, in some places, to restrain this growth of landlord families; and yet it was good policy, and, indeed, a matter of necessity, to conciliate, in some way, the most prominent men. A certain number of the chiefs in Ráwalpindí (for example) were made into 'jágírdárs,' allowed a certain portion of the revenue of their iláqa, and were expected to aid the ruler with a tribal force of horse and foot. But many others were reduced to being what was locally called 'chahárami'—allowed, that is, to receive a *fourth* part of the revenue of certain villages. We shall notice presently the different application of this same term to a peculiar form of landed interest in the Ambála district.

I have already remarked how strong among the frontier tribes, was the feeling of landlord rank; they alone were the 'inheritors.' But circumstances often compelled them to admit other tribesmen, at least to the practical privileges of landholding. Thus, in Hazára, the tribal landholders found it convenient to associate with themselves strong bodies of 'tenantry,' either men of the country or living beyond its borders, whom they induced to settle. This was especially the case on border-lands, where they placed fighting tenants called 'lak-band' (men with 'loins girded'); 'and,' says the Settlement Officer, 'the great question was, not how much land the "wáris" had, but how many hands served him[1].' There are also many instances where the tribal families were averse to handling the plough, or, at any rate, would only perform the lightest parts of agricultural labour with their own hands. To employ tenants or dependants in such cases was a matter of necessity. Naturally enough, many of these persons acquired strong rights, partly in virtue of the sentiment which attached to them as first clearers of waste, partly in virtue of promises made in order to attract and to retain them. And when, for a long time, the Sikh rule had prevailed and they had paid revenue direct, and on an equality with their landlords, and as, moreover, they had paid nothing (and *could* pay nothing) in the way of rent, they were regarded, under our Settlement, as entitled to a very strong tenant-right.

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[1] *S. R.*, Hazára, p. 110.

We shall also frequently meet with other classes of tenants located by the landlord (and sometimes by a local governor, irrespective of the wishes of the landlord), illustrating the universal strength of the feeling of right which attaches to the clearing of the waste and helping in the foundation of the village. Religious holdings at privileged rates are also common: the tribesmen encouraged Saiyads and other reputed holy men to settle among them, and frequently gave them freehold grants, known as 'seri,' for their own support, or to keep up a mosque or a shrine (ziárat), these latter being especially numerous in the frontier districts.

§ 9. *Water-Shares.*

But no account of the frontier districts would be complete without a notice of what I may call 'water-tenures.' There are many parts of the dry hilly country where cultivation is dependent on a few streams that always contain water, and on torrents which only flow when heavy rain has fallen on the hills beyond, sufficient to fill the channels. Here it will be found that the water, and not the land so much, is the subject of careful partition, and of a regular tenure on well-understood shares. It has been observed of early tribal tenures in India, that it is not so much the *soil* that is regarded as the subject of ownership as the *produce*. This may be the case especially, where land is abundant and of little value until laboriously cleared of tall grass and jungle. A similar feeling regarding the *water* arises in cases where the land, without means of irrigating it, would be absolutely useless. How far this consists with the feeling of territorial right indicated by the term 'wirásat,' or with the ideas entertained by conquering tribes, I do not attempt to determine. At any rate, in the case of the water-sharing customs in Bannú and other districts, we have a good instance of the principle. Chapter VI. of the *Settlement Report of the Bannú District* (Mr. Thorburn's) is devoted to describing the system and the terms used in that locality. The water-shares[1] are sold and mortgaged. When the Sikhs imposed a heavy tribute (locally called 'kalang') they found that some persons were able to pay more than others, and the sense of the people at once supported the members who were thus able to keep the enemy away, and they were regarded as proprietors of a proportionate area; and a redistribution of the shares in water-courses was made to enable them to cultivate and so keep up the payments. A mortgagee (in possession) who was obliged to pay tribute for his mortgagor, became proprietor, and therefore, as long as he could, the mortgagor himself endeavoured to pay the 'kalang.'

Where these water arrangements are perfected, there is no 'vesh.' Naturally, here, the reason for an exchange of lands ceases to operate.

The principle of distribution depends on the amount of water available. When there is more than enough, everyone extends his cultivation according to his means, and then gets water for the whole. But where the water is not superabundant, it is divided according to the inheritance-fraction which each holder represents in virtue of his place in the genealogical tree.

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[1] The water-sharing involves two different matters: one, the fixing of the shares of the water-supply to which each holder is entitled; the other the regulation of the customary means by which the water is distributed. The latter may be by 'heads,' one above the other, for leading off the water from the stream; or by a system of dams and dykes by which the whole or part of the stream is turned for a certain time on to a man's land, the dams being then broken down. Sometimes dams are made of a certain height, so that when the water exceeds a given depth the surplus must flow over the dam.

These details are all printed in statements of water-custom in the Records, and are sometimes the subject of very troublesome suits in court.

Even where the water is superabundant, it is common to meet cases where the proper shares have been forgotten under the necessity for raising the largest amount of produce to pay the Sikh revenue-demand; but the old shareholders still form a sort of committee of management on behalf of the mixed community,—mixed, that is, of the real 'wáris' families and outsiders invited to settle in the territory and help to maintain the estate.

When the water-supply is only just sufficient, the shareholders have the priority, and their privilege of having part of the labour of clearing water-courses, &c., done for them by the tenants and settlers, is enforced.

If the water is scarce, the original founders' families (those who excavated the canal, if it is a canal country) share strictly according to inheritance-rights. 'At most the water-lords regarded themselves as under a sort of moral obligation to give some water to lands whose owners paid a portion of the Sikh "kalang" as long as these owners did an extra amount of canal labour[1].'

Water-shares are in some cases (where the supply is very limited) sold quite independently of land. Thus, a man may have a piece of land dependent on rain only for its cultivation, and he may then buy a water-share, or do labour and service to acquire it.

Naturally, such customs arise where cultivation by the aid of rainfall only is possible, but is so inferior as well as uncertain, that an irrigation-share is really the right which possesses the greatest value.

Some peculiarities of water-custom in the tracts at the foot of the Sulaimán hills will be noticed in giving the details of districts.

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[1] Bannú *S. R.*, p. 95.

§ 10. *Pre-emption and other Customs.*

In this country generally we find the law of pre-emption in force, so that strangers may be kept out of the tribal groups. The management of affairs is conducted by councils of the heads of families, called 'jirgá,' and these bodies have been made use of in disposing of doubtful cases of crime under the Frontier Regulation of 1887. I have not found it described in exactly what relation the 'jirgá' stands to the tribal chief, but I presume the chief is a sort of president.

The reader will also find instances among some of these tribes of a 'democratic' spirit, under the influence of which no chief is recognized, and equal sharing is the rule in land allotment.

It will also not fail to be noticed that though, *in a certain sense*, the area conquered by the tribe is 'common' to the tribe, so that every one submits to take his lot and to exchange it for another when the period for a redistribution arrives; and though, in a few instances, the entire produce of a particular tract is raised by joint labour and is afterwards divided out to the shareholders, the *common* holding is of a peculiar and limited kind, and very soon gives way to holding in severalty, especially so where the 'vesh' custom has been dropped, or where circumstances made it inapplicable from the first. In any case, there is nothing resembling what we call a *joint*-tenancy, where every co-sharer is regarded as in legal possession of 'the whole and of his own individual share.'

There is always some method of sharing, or more rarely of appropriation at will, within certain limits; and when the cultivation of the holding involves labour in embanking or canal-cutting and maintenance, and in clearing the jungle, the idea of several enjoyment is soon, if not from the very first, fully entertained. There are very generally gradations of right, and the superiority of the original founders' families, or of the first establishers of the village cultivation over the followers or outsiders admitted from one cause or another, is strongly marked, even among such tribes as the Bábars of Northern Dera Ismaíl Khán, who profess a perfect equality among themselves, and acknowledge no chiefs.

I may now proceed to note a few peculiarities that strike a reader of the Settlement Reports, district by district.

§ 11. *Peshâwar.*

Here are mostly Afghán tribes, Mohmand, Khalíl, Dáúdzái, Yusafzái, &c. They call their tribal lots 'daftar.' The interchange between villages has long ceased, but the 'vesh' of lands inside the villages lasted longer.

The land was classified into 'wands' or similar tracts, and there are a number of such wands for division purposes in each 'tappa' or area occupied by a main division of a tribe. The village head is 'Malik' by title and the 'tappa' head is called 'Khán.' The village lots are 'kandí,' part in each 'wand,' so as to get an equal distribution. The 'kandí' is, or may be, further subdivided into 'tal[1]'. The actual share is called 'bákhra,' and the 'kandí' are contrived to contain 100 'bákhra' each. A peculiar measure, called 'jaríb' (lit. a rod or javelin), with subdivisions, is adopted for measuring land.

I notice that the allotment is remembered as that of 'Shekh Máli,' who was the chief who made it; *all the lots were equal*, and colonists who came with the tribes were admitted to shares[2].

§ 12. *Kohát.*

One-half the district forms the great landlord estate of the Khattak chief, who is 'superior proprietor.' The district was mostly conquered by the Khattak tribe and by the Bangash tribe who came before the sixteenth century[3].

Here also we have the tribal 'tappa' subdivided into 'khel,' which have become the revenue 'mauza' or villages. The 'khel' blocks are usually large; in the centre of each the village site is fixed, and they are called by the name of some ancestor, as Nasrat-k͟hel, Lodi-k͟hel, &c. The k͟hel is here subdivided into 'kandí'; the individual shares are 'bákhra,' but they are not equal, or 'mouth' shares (khulá-vesh), but ancestral. Observe here that in the two principal distinctions of sharing—the ancestral or inheritance shares, and simply *per capita*,—we have exactly the distinction which among the 'Hindu' tribes makes the difference between the 'pattídárí' (ancestral) and 'bhaiáchárá' (equal lots in some form), using these terms in their original and strict sense.

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[1] Throughout I prefer to leave the vernacular term in the singular without obscuring it by adding an English 's' to indicate the plural, or by the pedantic course of putting the vernacular plural.

[2] Peshâwar *S. R.*, p. 85.

[3] Kohát *S. R.*, § 182.

In the Marwat iláqa, as in Tánk, the 'khulá-vesh' or equal distribution *per capita* prevails. The Settlement Officer remarks[1]: 'As the custom of *vesh* has gradually disappeared, the members of the village community have become full proprietors of these individual holdings. As a rule, the whole of the cultivated lands have been thus divided.' He mentions that villages have sometimes (doubtless to increase their resources) started new 'banda' or outlying hamlets, often cultivated by other tribes—Afrídí, Urakzái, &c.,—who have sometimes acquired occupancy-rights at Settlement. It is in this district that mention is made of the custom of holding lands in 'qabza' —that is, outside of the lots subject to periodical re-partition[2].

Each proprietor has part of his lot in the different soil-areas ('vesh,' 'wand,' &c.), which are invariably selected as the basis of division. Some common pasture-land is usually left, and where part of this is cultivated, the produce or rent is divided out among the proprietors according to their shares. In irrigated villages, the water is divided in these same shares.

But while the shares have been preserved in irrigated lands, those dependent on rain (báráni) have become held on possession only,—each man broke up more or less land according to his means, and the principle of the first clearer's right gave him a claim to what he had so cultivated. The area of waste was large, and there was no jealousy about each man taking what he wanted.

Indeed, I notice that in the case of one tribal section—the Ságrí Khattak of Shakardarra who occupied a great broken and rough country, each family settled where it best could, and cultivated what it liked around the place fixed on; there was no soil-grouping or allotment of defined areas.

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[1] *S. R.*, *p.* 87.

[2] Id.

Tenants are here employed and never farm-labourers. If a man cannot till his own land, he employs a tenant whom he calls 'chárikár' or 'sharík' (partner), and gives him seed and a plough, taking one-fourth of the produce on irrigated land, and more on rain-cultivation (the labour on the former is greater).

§ 13. *Hazára.*

We have here a different set of tribes, Swáti or Tanáwal in the north, Turín in the centre, and so on. There are also Awáns, Jats, and Gújars in parts; and in the hills adjoining Ráwalpindí, Dúnd and Karrál tribesmen.

Each tribal iláqa is strongly claimed as 'wirásat,' and the non-proprietary residents are 'tába'dár' (subject). I have already mentioned the case of the associated strangers of other tribes (p. 642, ante). A portion of this district is fertile plain country, and here the Sikh rule made itself especially felt.

As may be supposed, the Sikh system tended much to the levelling of all distinctions; and the consequence of the 'subjects' or outsiders having long borne an equal share in the burden of the Sikh tribute has been to give rise to a 'prescriptive right' (as we should call it), described by the term 'khád.' An old proprietor might have lost his ancestral or birthright land and held other fields; but the distinction between the prescriptive right and the birthright would appear when such a person, at the Settlement, offered to surrender his 'khád' if restored to his 'wirásat[1]'. On the other hand, if a man, not having an ancestral claim, had 'held his land in direct relations with the (Sikh) State and free of the dominion of the old "wáris," he would put a further meaning on the term "khád," and use it to express his right to resist the re-introduction of the old "wáris,"—or, in other words, his right to be himself treated as proprietor of the land in his possession.'

It is not surprising, seeing what conflicts there must have been between the old claimants and those who had so long been equally recognized—for the purpose of extracting revenue—by the Sikhs, that the Government wisely determined to entrust the discrimination of rights to a very capable Settlement Officer, and provided that, when a decision had been arrived at (subject to the approval and careful revision contemplated by law), the record-of-rights should be absolutely final. That is the distinctive feature of the Hazára Settlement Regulation. It is also this same circumstance that necessitated an extension of the principle under which 'occupancy-rights' were conceded to tenants by the general Tenant Law of 1868, and led to the passing of a special Tenant Regulation for Hazára.

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[1] *S. R.*, Hazára, p. 111.

It may be noted that in this district we find the Afghán tribes distinguished by calling their holdings 'daftar,' and the Utmánzáis by dividing the land into long strips (líkhí).

In the hill-villages there is a grazing lot (rakh) attached to each holding, which after a certain season is open to common grazing of the village.

§ 14. *Ráwalpindí.*

This is properly a district belonging to the group we are describing, though part of it is much cultivated by Jats whose customs are of a different type to those of the *comparatively recent* tribes on the frontier.

The hills to the east and north-east show the Dúnd and Karrál tribes in occupation as in Hazára (which adjoins at this point).

Among the tribes which conquered 'iláqas,' the prominent ones are the Gakkhar, Jódra and Gheba (connected with the Síál of Jhang and the Tiwána clan of Sháhpur district). There are also Pathán tribes, and the ubiquitous Gújar, as well as Áwáns, who begin to muster strong in this region, and Khattars.

The Gakkhar[1] clans, once very numerous, still exist in small numbers; they established an overlordship over large tracts. Descendants of the chiefs now form the proprietary families owning villages: they are among the 'Sáhu,' or gentry *par excellence*, and will not handle the plough. It is among these families that the share of the 'footmen' and the 'horsemen' were distinguished as already related (p. 639).

The reader of the Report cannot fail to be struck with the power of holding together exhibited by these village bodies. In some villages families of different tribes settled together to present a common front against the difficulties of the time;

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[1] For an account of this tribe, see *Imp. Gazetteer*, art. 'India,' vol. vi. p. 186. As regards the time of their first immigration, the Gakkhars seem to have been earlier than many of the frontier tribes.

and this feature is indicated when we find that the main divisions, 'taraf' or 'pattí,' are held by different tribes.

Naturally enough the presence of conquering families establishing themselves as overlords, in some cases led to the degradation of earlier bodies of proprietors. And thus arose, in some estates, a body now recognized as proprietary, while the rights of the 'layer' below have been recognized (as in Hazára and in Gujrát) by the expedient of declaring them 'málik-maqbúza.' I have already made some remarks (p. 641, ante) as to how this came about.

In a few instances the chiefs have become proprietors of estates containing two or three or more villages; but rarely so, for the Sikh policy (like that of the Maráthás) was to ignore overlords (who intercepted revenue profits) and deal direct with village proprietors, tenants, or anyone else, whom they found in actual possession. Nevertheless, they had to conciliate the chiefs, and while they allowed some of them to hold their villages in *farm*, they more often made them jágírdárs, and then, gradually resumed the jágír, left the grantees only as 'chahárami,'—i. e. entitled to a *fourth* part of the revenue as an allowance, but without any right over the land. In this way the growth of landlord estates (other than the village estates) was checked.

I have to note in this district, that at the first Settlement, thirteen villages which were 'pattídárí'—i. e. enjoyed in severalty—voluntarily returned to joint cultivation, selling their grain to the *Khatri* dealers and dividing the proceeds. This is curious. Another effect of Sikh rule has been very much to upset the ancestral shares in villages, and in some cases to necessitate the introduction of new sharers (to take part of the burden); and such strangers were admitted to all privileges. In numerous cases where shares have fallen into abeyance, if the revenue is light, we find it distributed by lump-sums on each holding; but then the profits will be totalled up and divided according to the extent of the holdings. In other cases the revenue is simply distributed according to the extent of the holding; but in some according to the ancestral shares, though the holding does not in fact correspond to the share.

The result of all changes as regards land-tenure, has been to show (1) a number of chiefs and others drawing a 'taluqdárí' or 'chahárami' allowance from villages that are not, in any other sense, their property; (2) villages held by the original (conquering) proprietors; (3) persons admitted as co-sharers; (4) a number of old proprietors degraded by the conquerors and now called 'málik-qabza,' either paying only revenue, or else a percentage fee as well.

§ 15. *Bannú.*

This district contains several rivers, for here the Kuram and its affluents join the Indus. There are hill torrents and also canal irrigation by cuts from the river. The peculiar customs of water-sharing have already been noticed (p. 644, ante). The Bannúchís are the principal inhabitants; and though the district has known the rule of Mughal, Duráni, and Sikh in succession, it has not been overrun, as some of the other districts have, since it lies off the caravan route between Kábul and Hindustán.

In the Marwat 'iláqa, some land is still subject to 'vesh,' and in such villages land is not sold[1]. The 'wand' or division-groups of land of different sorts are allotted by 'khulá-vesh' or equal distribution *per capita*.

A large area of 'kachchí' or moist land along the river, is chiefly held by Jats, and the land-revenue system is the 'fluctuating-assessment' described in the Chapter on Settlements. An interesting account is given[2] of some villages in this 'kachchí' tract, where the land has never been divided up into estates. The Sikhs consequently treated it as Crown land, and gave leases to applicants who were allowed to cultivate, but who voluntarily paid to the Pathán and other previous conquering-settlers, a sort of rent called 'lôsha-tobra' (lit. 'plate and grain-bag,' i. e. grain for man and horse) or 'khúti.'

§ 16. *Dera Ismaíl Khán.*

This district is distinguished by the fact that the Indus flows through it from north to south, so that we have a trans-Indus tract and a cis-Indus tract. The former, *in the north*, exhibits all the tribal features of the frontier (indeed, this is true of the north on both sides of the river). In the trans-Indus country, the 'Dáman' or *tract skirting the Sulaimán hills*, is peculiar; the land is only cultivated by the aid of the water which descends, during seasons of rain, from the hill torrents; the terraced fields are carefully embanked (with great labour), channels are constructed to let the water from one terrace to another; and the object is to collect the water on the field in a considerable volume and let it soak in. By virtue of this one soaking a crop is raised.

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[1] Bannú *S. R.*, p. 131.

[2] Id., p. 137.

In the river villages on both sides of the Indus, we find tenures closely resembling those of Sindh; and they explain to us exactly how the conquering tribes established (what is here as in Sindh, locally called) a 'zamíndárí' or overlord claim over large tracts of country—a claim which found expression in the exaction of a peculiar sort of fee or rent from the villages. At the present day this state of things appears to mark the decay of the tribal overlord's power. The actual well-sinkers and cultivators form the real proprietary; but still the force of custom inclines them to recognize the overlord and pay him a tribute or rent. The superior right is spoken of as the 'wirásat zamíndárí.'

§ 17. *Northern Part of the District.*

Noticing now the different parts of the district in succession, we begin with the north, where we find the land-groups as occupied by the tribes, or main sections of tribes, called 'had'[1] (not tappa).

Among the Patháu tribes we find the 'had' divided into cultivating lots, and outlying portions made over to tenants, whose rents are divided among the tribal families.

The hill cultivation (above described) is naturally marked by some peculiarities; the cultivator who laboured at making the embankment round the fields, if not the owner, is a tenant with fixed rights. As it is an object to prepare the land and sow the seed as soon as possible after the field has got its soaking from the torrent, large areas are undertaken simultaneously by companies of ploughmen called 'halára,' and the produce is divided according to ploughs; but the person (or his representative) who made the embankment is allowed an extra share called 'múa-jora' (lit. the share of the dead yoke of oxen), on the fiction that this person also contributed the labour of a yoke of oxen to the cultivation, only that they are not among the living lot that actually prepared the soil, but had existed at a former time. Men who supply labour in repairing the banks, keeping the channels in working order, &c., but have no cattle, get a smaller share, as 'ním-wál,' 'páo-wál,' &c.

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[1] Had is simply the Arabic for 'Boundary.'

In this class may be mentioned the Gandapur tribe, who also cultivate by the aid of the 'dagar' or torrent-water. They divide the land into 'nálas.' I suppose (as 'nala' is the common word for a stream or torrent bed), that the main ravines, with the extent of land that can be terraced on either side, form natural divisions of territory. The tribe has six 'nála[1],' and each is subdivided into 6000 'daddí' or shares. But they have to alter the number, when the number of sub-sections and families is such, that it will not divide evenly into 6000; and then irregular shares or 'kachchá daddí' result as well as 'pakká' or full shares. The shares, as usual, consist of plots scattered all over the 'nála' to secure equality of soil advantages. Among these people, as in some other parts, I notice that the cultivation is sometimes managed by a sort of mortgagee who makes a money advance, and cannot be ousted unless the advance is paid off; such a manager is called 'níáwadár,' and he also gets an extra share (I suppose by way of interest on his advance, or for his trouble in managing) which is called 'múa-jora,' a term I have already explained. It will be observed that here we have a case where there are no *village groups*. The whole is held in 36,000 single family shares, only divided into six 'nálas.'

The Zarkanni families of another tribe call their shares 'tal,' and divide the villages into lots for cultivation called 'dhar.' The produce of the *whole dhar* is divided into three lots; (1) for the proprietor; (2) for the cultivator; (3) for seed, for the plough, and for 'kamiána' (dues of the village servants). The proprietors' share is divided out according to the 'tal' or shares.

But the most interesting tribe remains to be noticed; the Bábar tribe occupy about 180 square miles north of the Míáṅ Khel. Here is a tribe thoroughly democratic, acknowledging no chief, 'and exceedingly impatient of any member of the tribe trying to exercise authority over them[1].' Their method of allotting land is, as might be expected, by the 'khulá-vesh' or equal partition.

The primary divisions are 'búli,' and these are divided into 'gandi' (or gundi?), and this group is formed of a number of separate 'khulá' shares. 'Each "búli" now holds its lands scattered about in large lots all over the country.' The water-rights are divided in the same shares, and are sold separately; so that a man may have a water-share and no permanent land; but if he has the water, he has a right to turn it on to any plot of (unshared) Bábar land that is not cultivated, and the land becomes subject to a sort of 'servitude.'

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[1] Dera Ismaíl Khán *S. R.*, p. 166.

It should be remarked that the Bábars, democratic as they are, are yet exclusive, and ordinarily do not themselves cultivate. The lands are often managed by labour-supervisors called 'mazdúri-khor.' Especially in outlying and easily attacked lands, these persons have obtained a hold, so as now to have been recognized as 'proprietors of their holdings.'

§ 18. *The Bet, or Riverain Land.*

In the alluvial villages on both sides of the river, we find, as might be expected, that we are passing away from the special customs of what I have separated as the 'Frontier Tract,' and we find ourselves approaching the customs of the 'Southern River Tract,' which closely resembles in its customs the Sindh province. But we are by no means out of tribal influences; the territories are still either those of tribes, or are colonies, started by heads of families who, for various reasons, migrated from their original homes. Thus the sons of Ghází Khán settled in a portion of this district and became the ancestors of a number of village bodies.

In the whole of this country where the 'had' are held by descendants of conquering tribes, we find the families holding the superior right ''alá milkíyat,' over the cultivators, who are either conquered people or tribal dependants, or later colonists. All pay a fee called 'jhúri[1]' to the overlord families (who are said to have the 'alá or the 'zamíndárí' right).

Naturally in the great plains, and especially where the river-moistened land gives way to the 'thal' or extensive desert portion of the Doáb, the 'had' limits are vague, and the 'villages' of to-day do not correspond with them, even where they were supposed to be known.

We find here tenants who cleared the waste and are called

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[1] So the word is written in the reports. I cannot trace it in any dictionary. May it be the same as the 'jholi' or 'lapful' of grain mentioned in some of the districts?

'búti-már[1]' and have certain privileges, though their right is not transferable. We find also that persons would settle, and by paying an 'entrance fee' or 'jhúri' (as well as the recurring proprietary due) would become 'adná málik' or inferior proprietor. This status could also be held by members of the ''alá-málik' body when they chose to cultivate, so that a man of the superior family might have his holding strictly according to the family share, as 'alá-málik, *plus* as much more land as he could manage, held on the 'adná málik' status (and carrying no right to profits of the estate at large).

The 'adná málik' was a valuable person, as without him, the superior landlords would never have been able to meet the demands of Sikh revenue-farmers and lessees[2]. The adná málik appears to have a sort of right to break up waste, and the superior cannot (by custom) refuse, unless he wants the particular plot for his own cultivation.

I have already extended this notice to too great a length to enable me to do more than refer to the *Settlement Report* (pages 85–6) for an account of how, in the cis-Indus, the four sons of Gh̲ázi Kh̲án started, with all sorts of dependants, Jats, Bilúchis, Sayyids, &c., and colonized the river lands. Holdings were apportioned among the settlers 'by the captains of the bands, in large lots.' The original assignees of these lots became the 'alá-málik (zamíndárí right). But in the open countries more exposed to the direct power of the State officials, such superior rights in time became lost. The Ruler would ignore them, as extending over an area far beyond what was apparently in possession; and then to increase the revenue, he would not hesitate to grant some of the unoccupied land to settlers and cultivators, who, of course, were not bound to the original claimant.

All these tenures are very interesting, because (if the student will turn to the section on Sindh), they show directly how the 'zamíndárí' rights there described arose.

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[1] Búti—a bush or shrub, már (from márná) to destroy or remove.

[2] A class of these revenue-lessees is spoken of in this district by the name of 'mushakh̲sadár' (contractors for a 'fixed sum'—as the name implies). Such a lessee is always the worst of masters.

SECTION III.—THE SOUTHERN RIVER TRACT.

§ 1. *General.*

The effects of former tribal settlements are still discernible in these tracts; but we hear less of iláqas, and shares, and sub-shares held by families of the same tribe. The original conquerors may appear in parts with a certain overlord right—''alá milkíyat'—but this, too, is less conspicuous. The noticeable features of the country are, that cultivation here depends on the canals that carry water inland from the Indus or Sutlej (as the case may be), and on wells which are still sufficiently near the river to derive water from the subsoil. The desert beyond is uncultivated, or only casually cultivated on the fringe of the tract, where wells can still be sunk. This is the country of colonists, rarely or never forming communities. The modern village is no longer anything but an artificial creation for revenue purposes; the 'well' or some group of lands watered by a canal cut is the unit of property. Where the overlord right survives—I mean where it extends over a definite tract of land, and is not a mere superior right in a particular holding consequent on arrangements presently to be described—it is usually a relic of some old tribal conquest: and if we could reconstruct the areas over which particular families acquired such a right, and the larger areas of tribal occupation, we should restore an earlier stage of society. It may be doubted, however, whether there was ever a general and widespread occupation and division as in the frontier districts[1]. I proceed at once to note the special features of the tenures of this tract, as illustrated in the different districts.

§ 2. *Dera Gházi Khán.*

The heads of tribes are here called Tumándár; and though we find allotments of territory to the tribal families made by these chiefs, no compact communities are formed ; the nature of the soil and the limits imposed on cultivation by the necessity for a well or a canal-cut, make only small and independent farm holdings the rule.

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[1] It will be remembered that we may always have two kinds of tribal conquest. One where the immigration is in sufficient force to people a whole territory, the other where a small army under a chief makes a local conquest, and the result is only a limited overlordship over the original inhabitants.

But we have still every indication that the *principle* of tribal settlement is remembered. And it is very marked in the tract of country between the hills and the river, known as the Pachád. Here we meet with some of the same kind of cultivation as in Dera Ismaíl K͟hán—embanking the fields, that the soil may get a thorough soaking from the occasionally available water of the hill torrents. The custom of 'vesh' does not here prevail, except in the northern frontier tahsíl of Sangarh. Otherwise each allotted owner holds 'in complete independence.'

Here tenants who make an embankment are privileged ; they are called 'láthmár.' Throughout the district we see, once more, the strong influence of the feeling that some special right attaches to the person (whether tribesman or not) who has improved or cleared the land.

Outside the region of hill cultivation, and towards the river, we find the tenant called in to clear the lands, known as 'múndi-már' or 'búti-már' (words having the same meaning —'múndi' is the stump or root, 'búti' is the shrub or bush[1]). In the Sangarh tahsíl a tenant is put in possession of the land by the landlord tying the bushes into knots along the boundary of the holding[2]. The landlord's rent is made up of various payments; the names recalling the custom of Sindh. We have the 'lichh,' or landlord's share ; a payment called 'jholi' (a 'lap-full' of grain), and 'tobra' (grain for the lord's horse—tobra=grain-bag).

In the level river country we find the 'well' or the 'bánd' (strip irrigated by a canál) as the unit, and this is commonly divided into eight 'bullocks,' each 'bullock' into four 'ṣum' (hoofs), and the 'sum' into smaller fractions.

Proprietary right is often acquired by spending money or labour on the lands.

The 'kuh-már' or privileged tenant who sinks a well

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[1] River lands are commonly clothed with a self-sown and often dense jungle of 'pilchí' or tamarisk (*Tamarix gallica*) which comes up as soon as the land consolidates. The 'bán' (*Populus Euphratica*) also forms dense jungles on the southern river banks.

[2] 'Jhúṛá-band' may be derived from jhúr or jhár a bush; but more likely from jhúṛá a knot or twist.

(ádhlápí of Multán) is also known. And there are other varieties of tenants described in the *Settlement Report*, each having a different name which merely denotes some feature in the agreement, as that the landlord finds the bullocks and the tenant the seed, and so on.

Where the landlord lets land already improved, he gets in addition to the 'lichh,' a further share called 'anwánda' (=not wrought for), the share due to him for the labour or expense, not indeed borne at present, but incurred in the past. This was on the same principle as the 'múá-jorá' above spoken of[1]. Throughout this tract the Government revenue is called 'mahsúl'—whether grain or money. I have not heard any explanation of this peculiarity. In these districts the old division of grain was peculiar; the whole lot was 'khirmán,' and this was divided into heaps, one for the 'mahsúl,' and the other 'rihkám' to be divided between the cultivator and the proprietor. In some places I notice that a heap (talla) was first put aside, which was a deduction from the grain that would go to the State and to the proprietor; it being recognized that the allowance to the watchman, the weighman, and a few other charges paid out of this heap, were to be defrayed by the Government and proprietor jointly, while the other charges and allowances to village menials would come out of the 'rihkám' (i. e. be paid by the cultivator and proprietor jointly).

§ 3. *Muzaffargarh.*

This district, occupying the somewhat narrow triangular strip between the two great rivers, the Indus and Chináb, as they rapidly approach towards each other to their point of junction in the extreme southern angle of the province, is essentially a river district. The tenures resemble those of Sindh and of the cis-Indus portion of Dera Gházi Khán, as might be expected. Indeed, Muzaffargarh was in the historic past held by the Samrá and Samá Rájputs, of whom we hear in Sindh history. The Sikh rule, with its levelling tendencies, greatly aided in the reduction of rights to a common level; but still we find traces of overlord families taking their 'lichh' (or landlord's fee) from settlers. We find these settlers called 'Chakdár' as in Multán (under which district I have described them). Here again are 'búti-már' or jungle-clearing tenants; and here too the landlord claims his 'anwánda' in addition to other rent, when he lets land already 'improved,' to a tenant. There is therefore nothing special to occupy our further attention.

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[1] Then the 'Churáit' or tenant-at-will has to pay a rent composed of—(1) the mahsúl; (2) lichh; (3) anwánda.

§ 4. *Multán.*

This is perhaps *the* characteristic district of the series; historically it was also connected with Sindh.

The cultivation is wholly dependent on the rivers, i.e. it includes actual sailábá cultivation (which is lightly flooded or moistened by percolation), that on inundation canals taken out of the rivers, and that on wells sank as far inland as the percolation from the river extends. The district is surrounded by rivers; on the north is the Rávi (just before it meets the Chináb); along the east runs the Chináb; and on the south is the Gharrá or Sutlej (combined streams of the Biás and Sutlej) which meets the Chináb in the south-west corner of the district.

Throughout Multán we may find traces of the overlordship of certain higher families who either settled in particular places and founded the villages, or appear as overlord families in villages held by Jats and other castes.

But probably these overlords (Sayyid Makhdum, and Gardezi Sayyid, &c.) were never very numerous; and the Jat cultivators and other settlers were able to hold their own. It is always the practice of superior tribes to call in the aid of outsiders, who soon obtain the 'adná' or inferior proprietary position. In the days of the Sikh rule, when Díwán Sáwan Mal was in power, this district was well governed, but still on the principle of dealing direct with the cultivators of all grades, owners and tenants alike; accordingly, the State everywhere assumed the right to the uncultivated waste and the State officers dug canals wherever possible, and settled their own grantees on cultivating lots. Such cultivators were called (equally with tenants located by the landlord families) chakdár (i.e. 'holder' of a *chak* or 'lot[1]').

The result is, that of the whole series of cultivating holdings which were formed or compacted at Settlement, by allotting waste to each, into mauzas' or villages—about 25 per cent. are held by landlord-families, and 75 per cent. are groups of independent landholders without any common interest, except that of the waste which was given to them jointly.

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[1] But this word is also referred to 'chak,' the woodwork of the Persian wheel for a well, which must be sunk before cultivation would be possible.

'In the tracts near the rivers,' says Mr. Roe[1], 'the lands generally belong to Jat tribes, and here are found regular village communities, some of which still hold their land in common, whilst others have divided it, and in most cases have lost all trace of the original shares. Away from the rivers, the villages are generally merely a collection of wells which have been sunk in the neighbourhood of a canal, or in more favourable spots, on the highland. In these there never has been any community of interest, and in very many cases there is not even a common village site; each settler has obtained his grant direct from the State, sunk his well, and erected his homestead upon it. Under our Settlements the waste land between these wells has been recorded as "shámilát-dih" (common of the village), but originally the well-owners had no claim to it whatever.'

'But whilst this is the origin of many or most of the villages, there were other tracts where a particular tribe or family was undoubtedly recognized as holding a "zamíndárí" or (superior) proprietary right over all the lands, cultivated or uncultivated.'

In short we have in Multán—

(*a*) villages entirely held by members of the old conqueror tribes; or by families the descendants of some former chief or State officer;

(*b*) villages held by various castes, outsiders admitted as settlers, &c., but old tribal families hold the superior title, levying a landlord-fee or 'haq-zamíndárí,' and maintaining a right to the waste outside the inferior holdings;

(*c*) villages in which the chakdárs (grantees and settlers on wells) have become independent, and the relics of a 'zamíndárí' family only retain a 'haq' *levied from a few of the wells; they have also lost the right to the waste*, which is recorded as belonging to the landholders in proportion to the holding and revenue responsibility of each (*ḥasb rasd khewat*, as the revenue phrase is);

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[1] *S. R.*, p. 39.

(*d*) villages—groups of independent holdings where no zamíndár exists or ever existed, or where such right has been completely lost.

In the case of the villages where a 'zamíndárí' right subsists, the overlord's right is represented by his taking from the inferiors a fee called 'haq-zamíndárí' (which is over and above any rent taken from tenants of their own special lands). When strong enough, they levied besides this (as in Sindh), certain cesses called 'jholi,' 'dalá,' 'tobra,' &c.; and sometimes would raise their dues by insisting that the 'maund' by which *their* grain-dues were paid, should consist of forty-two *seers* instead of the standard forty[1]. In the (rare) case of villages where all the holders were of 'zamíndárí' families, the head of the whole would collect the half-seer in the maund from the others as 'ḥaq-muqaddami' or chief's fee. But if there were settlers and outsiders, it would be collected from them and not from the landlord family.

Sometimes a village body would find it convenient to place themselves, by a fictitious sale or transfer, under the protection of a more powerful 'zamíndárí' body, and this transaction was called 'háthrakhái' (putting under the hand). In some cases such protectors absorbed the actual proprietary right, and the protected then sank to the level of tenants.

The 'zamíndárs' (as I have already indicated) used to call in the aid of outsiders, called 'chakdár,' and the same name was also given to grantees who were located by the State officers. But even these grantees, in the neighbourhood of a powerful zamíndárí village, would find it politic to conciliate the landlords by paying a 'jhúri' or 'siropa,'—a sort of fee purchasing their favour and countenance. The chakdár, subject to paying the revenue (mahsúl) and this fee, became proprietor of his holding or 'adná málik[2].'

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[1] *S. R.*, p. 45. This aggressive tendency of the overlord will be noticed as finding expression in the same form, again and again, in other parts of India.

[2] The fee spoken of was usually paid by way of an installation fee, and there was the 'haq-zamíndárí' besides; the latter being usually half-a-*seer* in the *maund* of produce. It was at first supposed (and is so stated in the *first S. R.*), that a chakdár could be got rid of by repaying him the costs of his well and expenses of establishing the cultivation; but this was since recognized to be a mistake.

In the south-west of the district, the custom of 'ádhlápí' begins to appear. This was a modification of what I may call the 'chakdárí' tenure; under it, a settler undertook to sink a well, becoming owner of *half* the well (i.e. well and land watered from it), while the landlord acquired the other half. Or sometimes the 'ádhlápídár' would have a right of occupancy as tenant on the proprietor's half also—paying the revenue and a rent besides.

In the south-east another custom is known; here the settler or tenant sinks the well, but the 'zamíndár' remains owner and in possession, the well-sinker getting a certain payment known as 'kasúr-sil-chah' (= fractions of produce for the bricks of the well). And the well-sinker himself was called 'kasúrkhwár (or kasúrkhor)—the eater of the fractions[1].

Sometimes a 'chakdár' or settler instead of sinking the well himself, gives his land to a tenant, who sinks the well: in that case the tenant pays the revenue (and the overlord's *haq*, if there is one) and takes his own share as manager and capital-supplier; and therefore the chakdár only gets a small remainder, called also his 'kasúr.' In the Settlement such persons were regarded as inferior proprietors, and the Settlement was made with them, the chakdár being recorded as entitled to his 'kasúr' in kind.

§ 5. *Jhang.*

Jhang is a district which, though dependent on the rivers and on wells sunk in the vicinity of the moist region, exhibits the characteristics of the 'River Tract,' in which I have placed it, less prominently. The cultivation and occupation of land is along the rivers only, the rest is desert—at least till some great canal work in the future makes it otherwise. Of the cultivation, 30 *per cent.* is 'sailábá,' i. e. on soil moistened by the river directly; 69 *per cent.* is 'cháhi,' dependent on wells which derive their water from percolation; only 1 *per cent.* is casual cultivation, dependent on rain, when there is any, and this is very precarious.

The Siyáls are a tribe which hold a large proportion of the land along the left bank of the Chináb, from below Chiniot to the Rávi junction.

The Settlement Officer remarks that the people are settled on separate 'wells'—i.e. holdings with a well on them; in a few cases there is an overlord family claiming its 'haq.' But no trace of division and allotment of territory remains. Neither under the Siyáls nor under the Sikhs, were there any village estates with known or demarcated boundaries[1].

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[1] Kasúr is the plural of the Arabic 'kasr,' a fraction.

In this district we again notice the 'háthrakhái' custom in a somewhat different form. Here the 'protector' became answerable for the revenue and for profit and loss on the land, and so gradually crystallized his interest into a practical tenure of the land, consoling the old proprietor with a share or a 'málikána' payment. This 'háthrakhái' right is heritable and transferable, but the holder cannot demand partition; only his share of the produce is his own[2].

Settlers like the ádhlápídár and chakdár of Multán are here called 'taraddud-kár' (adopting the Perso-Arabic term for agricultural improvement). But there are many varieties of tenant-agreement[3]. The tenant, under some of the forms, gains such privileges and position, that it is difficult to say whether he is or is not proprietor of the whole or part of the well; the test is whether he is entitled to claim *partition*; if so, he is a co-proprietor; if not, he is in the inferior position, no matter what his privileges or his freedom from rent-payments.

In a district so situated, it may be well imagined that at the Regular Settlement, it not only became necessary to fix boundaries and constitute the villages, but to determine what rights were to be recognized as proprietary, and what were not; for the Sikh rule had ignored such distinctions, apparently already faint, and took the revenue-share from the actual cultivator, leaving landlords, or those who claimed to be such, to get what recognition they could in the shape of fees or rents. It was, as usual, a question of survival and practical recognition by custom. In the Jhang and Chiniot parganas there was more semblance of village grouping; in other places, mere scattered wells. The Settlement Officer selected the principal 'hamlet' or group of residences, and made this the nucleus of the 'village'; then an area of waste was allotted to it, and thus an estate formed[4].

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[1] Jhang *S. R.*, p. 64.

[2] In this case the *old proprietor* was called taluqdár.

[3] See *S. R.*, p. 67.

[4] The first Settlement Officer (Mr. Monckton), after stating what had happened under the Native Governments, remarks:—'There were naturally no defined estates, and the "mauzas" in the summary Settlement, were merely parcels of land paying revenue under one denomin-

§ 6. *Montgomery.*

This district was originally called Gugairá, but on the removal of the chief station to a more convenient site on the railway line, the station and district were called Montgomery in honour of the late well-known and lamented Lieutenant-Governor. The country is so largely composed of vast tracts of dry 'jungle' that there is little to be noticed in it, beyond some curious habits of cattle-grazing among pastoral castes who establish temporary camps (rahná, bahná, or jhok for camels) in the prairie. The canals from the rivers on the north-west and south-east sides are modern, and the villages are recent. But what old cultivation was established near the rivers was due to tribes of Rájputs who are traditionally said to have returned from Hastinapúra at the first defeat of the Rájputs by the Mughals: they fled to Sirsá and eventually came here. They established landlord villages, the major part of which are pattidárí or held on ancestral shares to this day.

SECTION IV.—THE CENTRAL DISTRICTS.

§ 1. *Districts intermediately placed.*

On leaving the 'Frontier Tract,' and before reaching what I may call the Central Panjáb districts, we pass through the country about the Salt Range—the districts of Jihlam and Sháhpur. And these (especially the former) have a certain affinity with the frontier districts, representing a transition between them and the rest of the province. I shall therefore devote a few remarks to them separately. As to the Central tract generally, when we come to the districts of the plains from the Jihlam River or the Chináb (say) to the Sutlej, and, indeed, beyond it,

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ation, but with no fixed principle for their union. Generally, there would be one principal village (place of residence) by which the name of the *mahál* (group assessed with one sum of revenue) would be distinguished, with subordinate hamlets and outlying wells often at a great distance.'

All had to be re-arranged, and reasonable areas to be recognized as villages: in the course of time the waste would be brought under cultivation, and the village would thus begin to grow into a real community. The allotment of waste, where the soil is culturable, is always an important factor in building up a village, if the character of the people is suitable.

we leave the country which was the scene of the immigration of comparatively recent (Muhammadan) tribes, and find ourselves among a mixed population, representing much older tribal locations, among whom are intermingled other subsequent settlers, as well as village bodies originating with the family of some single founder or adventurous seeker of land. The origin of these tribes has been stated (p. 611 seq.) in a general way. We no longer are able to trace the same phenomena of *tribal* lots still locally distinguished, or of tribal redistribution of holdings. The language, too, changes; for as soon as we come to Ráwalpindí, it is the Panjábí dialects, not Pashtu or Bilúchí, that are spoken.

Again, it will not have escaped notice that the tribes in the frontier districts are limited, local, and comparatively modern; while the central Panjáb is marked by the greater abundance of tribes which are not only older in time, but also have a much wider distribution. No one, for example, has heard of the Gandapurs outside Dera Ismaíl Khan; but the various families of Jats, Rájputs, Gújars, and even the Awáns and some others, are not only known all over the province, but throughout Northern India, and even beyond. There is at least one Jat state in Rájputána, and Gújars and Jats conquered as far as Sindh and Northern Bombay.

But though the Jat and Gújar areas are so widespread as to suggest a considerable tribal settlement, many other groups of villages found among them, are (by credible tradition) the result, not of clan or tribal conquest, but of the multiplication of single adventurous individuals, or, perhaps more commonly, of families (comprising a father and sons, or two or more brothers and cousins), who, pressed for land, or in a mere desire for change, had wandered off from their original homes—far distant, and resettled in the districts[1] where they are now found.

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[1] Indeed, it is quite necessary to caution the reader against too hastily concluding that *every* group of Jat or Rájput villages is a relic of a *tribal* settlement. Where we can trace the existence of the 'chaurássi,' or similar evidence of a tribal kingdom, its origin is hardly doubtful. But very many groups are simply due to expansion from one or two villages. A party of adventurer brothers, fixing their

In the case of tribal movements of Jats or even of Rájputs, I have already noticed the fact that whatever organization (if any) the people may have had of Rájás and (*quasi*-feudal) chiefs, these have long disappeared or melted away. We have now rarely any traces of original plans of division or allotment, or of chiefs' and Rájás' estates: and there are cases where we have what might be supposed to be the special area of a tribal settlement, but they are really the result of later movements, and of expansion from small centres. We have everywhere, however, groups of descendants forming strongly proprietary, coparcenary, bodies, holding village estates. We have no instance in these districts, of hereditary Rájás surviving the Muhammadan conquest as 'taluqdárs' or 'zamíndárs,' and becoming great landlords, crushing out the rights of the village cultivators, and reducing them to being tenantry.

The difference between the districts which I have separately described as the 'frontier tract,' and those now under consideration, being thus generally stated, I may leave the further establishment of the difference to the illustrative facts selected from the district reports to which I at once proceed.

§ 2. *Jihlam.*

This (and the next) are the districts which I have spoken of as forming a kind of link between the frontier and the Panjáb proper. If we look at the return (Appendix VII) in the last *Settlement Report* (Mr. Thomson's) we shall observe that, while out of a total of 979, only 47 villages are shown as owned by single or joint landlords, and 74 (of the same class) are held in severalty, 858 villages are called 'bhaiáchárá,' which, as I have already explained, means that either the villages are mere aggregates of cultivators without any natural bond, or (more probably perhaps) are distinctly landlord communities, only that the tribes were of that equal or 'republican' consti-

home in a certain place, will often be found, in a few generations, to be represented by a host of grand and great-grandsons and collaterals, forming quite a little circle of villages, who may or may not remember their common origin. Often, too, a large parent village throws off hamlets, and these grow into villages ultimately separate.

tution which resulted in an equal division and a several holding, which was what originally gave rise to the term 'bhaiáchárá.' I am not aware of any special causes which operated on a large scale, to break down shares that were once on an ancestral principle.

It seems probable that originally all this country was occupied by the non-Aryan tribe of Takkás or Tákshakas, of whom we have already spoken.

That the Takkás were afterwards overcome by and mingled with Aryan tribesmen, seems to be indicated by the existence, in this locality, of a Rájput (or half-blood Rájput) king called Porus (Purushá), whose defeat by Alexander is matter of history. Janjúá Rájputs still have villages in the district, as well as Awáns and Khokars (tribes of the same stock).

In that part of the Jihlam district which adjoins Ráwalpindí, the Ghakkars (p. 650, ante) obtained the overlordship of some estates; but the Awáns held a distinct tribal territory (in Tallágang tahsíl[1]).

The *Settlement Report* speaks of the tribal 'iláqa being still known; and we have here traces of the 'chaurássi'—group of eighty-four contiguous villages—sure sign of a tribal settlement, or at all events of the existence of a government of some conquering clan on what we may call the Aryan system[2]. It may be in eighty-fours,—chaurássi,—or half that, the 'be álisí' (forty-two); or the 'chaubísí' group of twenty-four. We find similar traces in the Lahore and other districts.

In the Jihlam district I find it noted that 'it is the custom for the Ghakkars and other superior tribes to live in a large central village with all the village servants, while the Jat cultivators build small hamlets (called 'dhok' or 'chak') of from one to twenty houses, all round.' In the process of time, and under the Sikh revenue-system, these became separate estates.

In this district also the *Settlement Report* remarks:—

'The column for the total area shows some villages which are small counties. As they are *boná fide* single estates, held by one joint and undivided proprietary body; their size is really very great. Láwá contains over 90,000 acres and extends over four miles by sixteen. Thohá has nearly 50,000, and is ten miles by twelve. Kundwál, again, stretches for nine miles and contains 35,000 acres. Another great village—Lilli—is now split up into four independent villages, but it was once all one and contained 22,000 acres. The people are all descended from a common ancestor[1]. There are a number of other villages also, each with above 10,000 acres.

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[1] Mentioned in the 'Ayín-i-Akbari,' as the 'Mahál Awánán.'

[2] See vol. i. Chap. IV. p. 179, note [1].

Altogether, we have sufficiently strong evidence that this district, after being held by Takkás and Rájputs, was overrun by Ghakkars and Awáns and Khokars, and that their ruling chiefs held tribal districts (ilaqá), which have gradually, but not uniformly, dissolved into separate villages; and that the district closely resembles, in the development and circumstances of its tenures, that of Ráwalpindí.

§ 3. *Sháhpur.*

This district is in part formed by the Salt Range valleys and tablelands with their abrupt cliff-like sides, and in part consists of the almost desert plain between the Jihlam and the Chináb;—desert, that is, at a limited distance from the river bed and the continuous system of small inundation (and also perennial) canals taken out of the rivers for a short distance inland. These canals seem to be mostly confined to the Jihlam River in the north-west of the district.

A number of 'Rájput' clans (converted some few centuries back to Islám) and now distinguished as Gondal, Jhamat, Makhan, and Tiwána, are the conspicuous landholding clans. The Tiwána chiefs held a commanding position and still own considerable estates. The villages are strongly landlord, though, owing to the effects of Sikh rule, the old shares became lost and the cultivator's possession became the measure of his right. The different sections of the estates are distinguished as 'tarf,' or locally 'varhí' (a word, by the way, implying 'turn' or 'change').

'On the dissolution of the Mughal empire,' writes Captain (now Colonel Sir W.) Davies[2], 'anarchy for a long time prevailed, during which the country became the theatre of incessant fighting of tribe with tribe, varied by incursions of the Afghans.' 'To this succeeded the *grinding* rule of the Sikhs, when, as has been truly remarked, the tendency was rather to abandon rights—symbols more of misery than of benefit—than to contend for their definition and enjoyment; and if these causes of themselves were insufficient to weaken the strong ties that bind the peasant to the soil of his fathers, the occurrence at times of famines and other calamities would concur in bringing about the result.'

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[1] Compare the case of Jat villages noticed (in this chapter) in the section on *Rohtak* (post), and see vol. i. Chap. IV. p. 112. Compare also, vol. ii. p. 135 (North-West Provinces). We have here instances, where either a clan divided its entire area at once into ultimate family lots, without any intermediate *village* grouping (cf. p. 654, ante), or else where a small group settled on a wide vacant space and afterwards expanded and multiplied. Thus one great estate (or one great village, if we so please to call it) is formed.

[2] Sháhpur *S. R.*, p. 105.

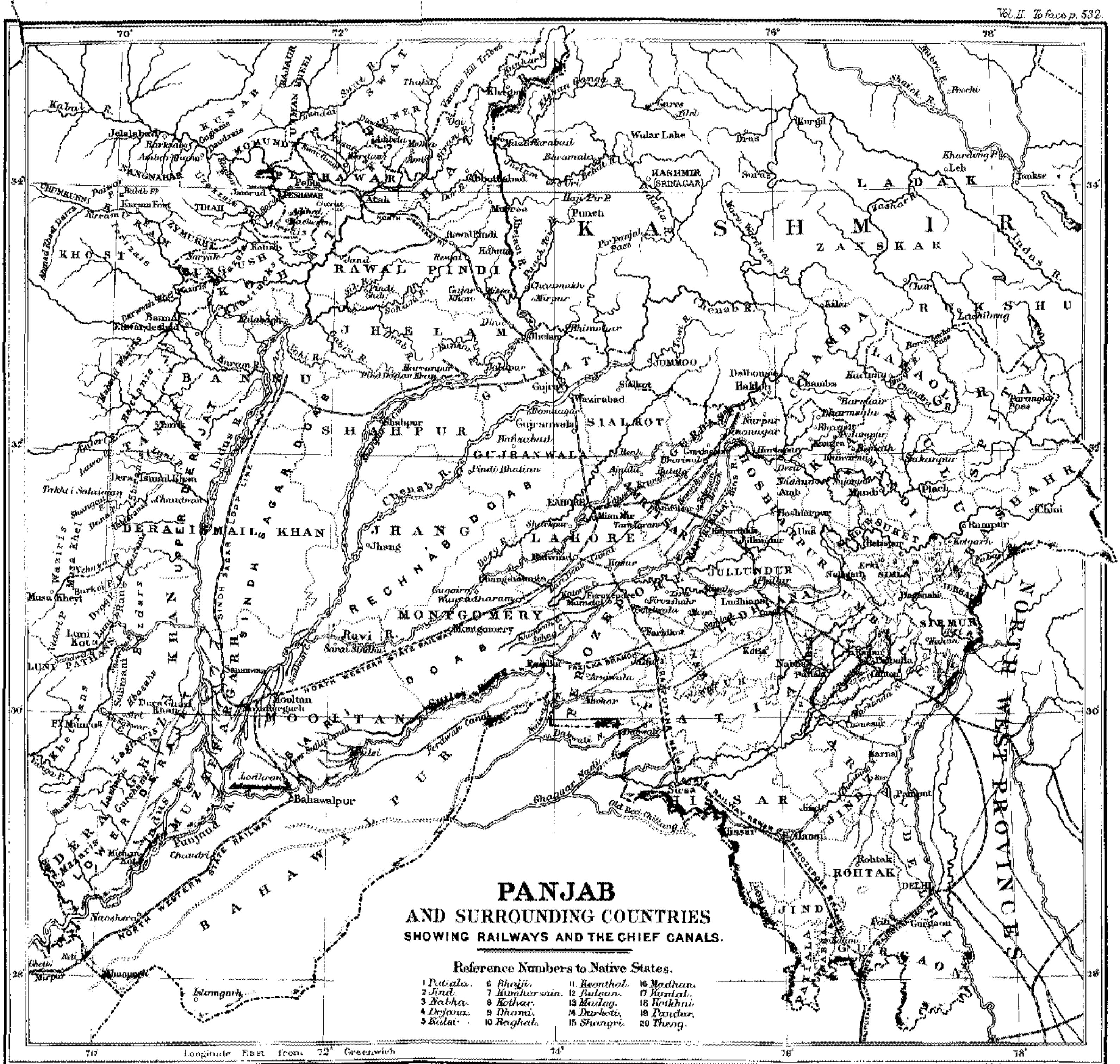
It is noted that the 'tarf,' 'pattí' (or 'varhí') that are remembered have not been acted on for generations, and that since annexation, generally, the revenue and profits are distributed by a rate *per* bíghá or a rate *per* 'plough.'

§ 4. *Gujrát.*

In the adjoining district of Gujrát, the state of things was very similar. We hear again of the ancient families (once conquering tribesmen) describing their right in the land as 'wirásat,' and we find chiefs partly acknowledged by the Sikh ruler, but only with the 'fourth,' or 'chahāram' allowance already mentioned in the Ráwalpindí district.

The 'Chíb' clan of Rájputs (though never very numerous) appears once to have conquered and held as overlords a considerable area. They held together under a system of government by chiefs, evidently the regular system of Rájputána. The *Settlement Report* of 1860 notes that the tribal territory was organized into four major divisions called by them 'mandí' (or mándi ?) and six minor divisions or 'dheri.' They had, in fact, four greater chiefs ruling the larger areas and called 'Rái'—(which term is still in use as a title of distinction all over Hindustan). The smaller estates were ruled by chiefs called 'Thakar' (*thukker* in the original report), a term which recalls the 'Thákur' of other parts.

The Rái's estate extended over twenty-two (or twenty-four ?) villages, the 'thukker's' over twelve, and there was a Rájá over the whole (he is not mentioned as having any special territory or 'khálsa' of his own: it is however obviously possible, if not probable, that he had). The general resemblance to the usual 'ancient Hindu' organization is marked. The ruling chiefs have long since ceased to hold the position;


70°
72°
76°
78°
34°
32°
30°
28°
KASHMIR
LADAK
ZANSKAR
PESHAWAR
RAWAL PINDI
JHELAM
SHAHPUR
GUJRAT
GUJRANWALA
SIALKOT
LAHORE
AMRITSAR
GURDASPUR
KANGRA
CHAMBA
HOSHIARPUR
JULLUNDUR
LUDHIANA
FEROZPORE
PATIALA
HISSAR
ROHTAK
DELHI
GURGAON
JIND
KARNAL
UMBALLA
SIMLA
MONTGOMERY
JHANG
MOOLTAN
MUZAFFARGARH
DERA ISMAIL KHAN
DERA GHAZI KHAN
BANNU
KOHAT
BAHAWALPUR
NORTH WEST PROVINCES
RECHNA DOAB
SIND SAGAR DOAB
NORTH WESTERN STATE RAILWAY
Indus R.
Jhelam R.
Chenab R.
Ravi R.
Sutlej R.
Kabul R.
Longitude East from Greenwich

PANJAB
AND SURROUNDING COUNTRIES
SHOWING RAILWAYS AND THE CHIEF CANALS.

Reference Numbers to Native States.

1 *Patiala.*
2 *Jind.*
3 *Nabha.*
4 *Dejana.*
5 *Kalsi.*
6 *Bhajji.*
7 *Kumharsain.*
8 *Kothar.*
9 *Dhami.*
10 *Baghal.*
11 *Keonthal.*
12 *Bulsan.*
13 *Mailog.*
14 *Darkoti.*
15 *Shangri.*
16 *Madhan.*
17 *Kunihar.*
18 *Kotkhai.*
19 *Pandar.*
20 *Theog.*

but certain families, now peasant-proprietary bodies, remember that their ancestors had the title[1]. The Chíbs, it is said, survived in their kingdom till Ranjít Singh broke down their power; as usual, the chiefs are now represented by descendants *who form the proprietary-communities* owning single villages in a limited area. Here also, we find that the overlord families have become intermingled with settlers and dependents, and their once exclusive privileges have been much impaired; the effect of the Sikh rule and of Páthan incursions has been (as usual) to reduce rights to a common level. 'Responsibilities,' writes Mr. Tupper[2], 'were imposed on the (village) founder's kin, and on immigrant outsiders, indifferently. Under our Settlement an attempt was made to adjust the different classes of rights (for the old proprietors would endeavour to reclaim everything, while the settlers, conscious of long having borne an equal burden of exaction and toil with them, would claim equality).' The result was that (as in Ráwalpindí) the tenants and settlers who, though clearly not founders of the village, had obtained a strong prescriptive position, were recognized as 'málik-qabza' (or 'málik-maqbúza') proprietors in full as regards their own holding, paying no rent or service, but yet not entitled to share in the waste, or in the profits of the estate at large, or to any voice in its general management.

I must here call attention to an interesting map adapted from the *Settlement Report* (Col. Waterfield's), showing how the different tribes once occupied the district. To simplify matters, I have united under one tint, all the *clans* (*got*) of the same tribe (*qaum*) which the original map separates. Only in the case of the Rájputs I have separated the *Chíb* (brown) from the other Rájputs, in order to show how the Chíb rule broke up and resulted in scattered village estates. It will be seen how a great part of the district is held by various clans of Gújars (Katháná, &c.) and by Jats (Varáich, Tárar, Ránja, Gondal, &c.). The Gújars it was who gave their name to the district—Gujrát.

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[1] See Gujrát *S. R.*, of 1860, § 67.

[2] *Panjáb Customary Law*, vol. ii. p. 31. (5 vols., Calcutta, 1881, printed for Government). This book abounds in valuable evidence of the origin of Panjáb villages in tribal settlements, and otherwise; while it gives the whole of the interesting correspondence regarding the proposal to record, at Settlement, *Codes of Tribal Custom* (see p. 566 ante). It contains also valuable and interesting introductory essays by Mr. Tupper himself.

The disturbing causes above alluded to are indicated by the number of villages that have lost their original ancestral shares, and adopted some form of holding on the basis of *de facto* possession. Out of 1430 estates, 980 are returned as belonging to this class. But here the misleading nature of the term 'bhaiáchárá' once more appears; for *all* these villages are not ancestral estates whose ancient share-system is passing, or has passed, out of memory; the *Settlement Reports* refer to the troublous times of Ahmad Sháh Duráni, for the origin of some villages, when it is believed that many distinct cultivating groups collected together for defence; and so these 'villages' retained an aggregate form, in which there never was any common holding or principle of sharing at all; all are however confused under the one heading.

§ 5. *Gujránwála and Siálkot.*

These districts have had a history in all appearance similar to that of Gujrát; they occupy the upper part of the Ríchnáb Doáb, adjoining Gujrát on the south-east. We find a number of tribes holding limited areas, which were originally tribal 'taluqas,' and these afterwards were appropriated by Sikh chiefs; and when these were in turn reduced by Ranjít Singh, they became administrative subdivisions in the 'k͟hálsá' or Sikh royal demesne.

These village bodies give various accounts of themselves: in many, if not in most cases, though they are Rájput, they are not relics of what I may call the first or original Aryan (Rájput) immigration into India; they represent a later or return settlement and colonization; their tradition states that the founders had come to Gujránwála from 'Hindustan,' Bikanír, Delhi, &c.

In GUJRÁNWÁLA the villages are mostly of Rájput clans; thus we have sixteen villages of Dhotar, twenty of Sekhú, 112 of Chímá (said to be Cháuhâṇ Rájputs), forty-one Vaŕáich[1] (calling themselves Súraj-báñsí (or Solar) Rájputs), and eighty-one villages of Chátta Rájputs. These latter illustrate, what I have before remarked, that groups of villages are not always the result of a conquest by whole clans or tribes. The story of the Chátta family is well told in Sir Lepel Griffin's *Punjab Chiefs*. They claim to be Chaúhán Rájputs. One Chátta—said to be a grandson of Rájá Prithí Chand—gave origin (in the tenth generation) to one Dherú (or Dhírú), who came from 'Hindustán' and settled in a village called Sidhkot. He married twice and had eighteen sons; these all separated and were the ancestors of the proprietary bodies who now own eighty-one villages. They formerly had recognized chiefs of the different branches, but these were reduced by Ranjít Singh, and have disappeared. Then, again, in the barren prairie country about Pindí-Bhattián, a clan of the Bhattí tribe came from Bhatnér (in the Cis-Sutlej Patiálá territory) and, after working for a time as graziers in the 'bár' country, founded eighty-six villages, of which Pindí-Bhattián is now the centre.

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[1] Observe that here the Varáich clan calls itself Rájput; in Gujrát it ranks as Jat. This is one of the many indications that some of the Jats at any rate, are Rájputs who have lost caste by mixed marriages or in other ways, and that the line between Jat and Rájput is very difficult to draw.

There are also 132 villages of the Virak tribe, who say they came from the hills of Jamú, and, if so, may possibly represent, either in a pure or mixed form, the earliest Rájput settlers in the North.

In this district a much stronger ancestral feeling, and the preservation of a scheme of shares in the estates, is observable. The villagers at Settlement sought to re-establish their pedigree tables and account for holdings that had (inevitably) been granted to persons not of the founder's kin, by gift, sale, and other forms of transfer. It is also noteworthy that here, in no less than 595 estates held on well-established shares, where the holdings had ceased to correspond to the shares, there was a *voluntary readjustment*; in no less than 389 cases there was a surrender and equalization made gratuitously, and in 206 cases, those whose holdings were deficient got additional lands made over to them out of the common waste. There are three principles of sharing—

(1) by shares in wells;

(2) pure ancestral shares, i.e. fractions resulting from the law of inheritance and the place in the pedigree table;

(3) the real old 'bhaiáchárá' of the North-Western Provinces—lots made up of bits of each kind of soil, or bhaiáchárá-bíghás (as they would be called in Benares) though not known by that name locally[1].

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[1] See Table at p. 65 of Nisbet's Gujránwála S. R.

In Siálkot we have much the same features, though here we find Jat tribes co-existing with Rájputs and showing an undeniable connection. For while we have Manhá and Bájú Rájputs *pur sang*, we have also Bájwa *Jats*; and here also Varáich *Jats*, though in Gujránwála the Varáich are Rájputs.

I have nothing special to add about Siálkot except to call attention to Mr. Ed. Prinsep's description of the changes that villages undergo. First, we have the tribes or families settling and adopting existing villages, or planting new ones in the waste. Then they divide, on ancestral or other customary shares; lastly, the shares are gradually upset, and possession becomes the measure of right[1]. However, the last 'stage' seems to have been reached less frequently in Siálkot than elsewhere, for, taking the bhaiáchárá of the returns to be used in its extended signification of villages 'held on possession only,' I find that only 633 villages are in this form, against 2049 divided on shares and 106 still held undivided.

Here, too, the landlord families seem only occasionally to have allowed outsiders to acquire shares in order to meet the burden of Sikh assessment; and we hear of a class of *tenant*—only a tenant—called 'hissachuk'—one who 'takes up (*chukná*) a share' (*hissa*) of the revenue-burden. From old times, tenants were classed as 'vási' (or 'vasi') (resident) and 'pahi' (non-resident). A tenant employed for a single harvest is locally known as 'opra' or 'upráhu'—a term which I have not met with elsewhere.

§ 6. *Lahore—Amritsar—Gúrdáspur.*

In these districts there are many Jat villages distinctly proprietary, as shown by their claiming village dues like 'atráfi' and 'thána-pattí' (house tax and other fees) from non-proprietors. But in all districts the 'bhaiáchárá' form of tenure is common, and a number of the villages may probably be traced back to co-operative colonization rather than to tribal conquest.

In Lahore there are traces of the 'chaurássi' (already described). But there are also many villages in which there are, aggregated together, different castes and tribes. Sometimes, one 'tarf' will be of one class and another of another. Sometimes such subdivisions have their lands compact in several lots (chak-bat). In others each subdivision has fields scattered about among the several subdivisional areas (khet-bat). This points to some probable original allotment, and can hardly be the effect of mere change and chance. The *Settlement Report*[1] notices an increasing desire of the people to reside in separate homesteads on their holdings, the peaceful times making it no longer necessary to aggregate the residences in one central spot for the sake of security. The people imagined that it was necessary for them to get permission of the authorities to reside separately in this way.

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[1] Quoted in the *Gazetteer* (Siálkot), p. 48.

In GÚRDÁSPUR the villages are of the same class. But in the *hilly portion of the district called Sháhpur-kandi*[2] there were once Rájput chiefs as overlords, and the minor Rájput families formed proprietary bodies over smaller estates, with, as usual, many dependants and squatters. When, under the Sikh rule, the chiefs disappeared, the inferior landholders claimed equality, or united to ignore the Rájput families altogether. At Settlement, the latter made many efforts to recover their proprietary position. There are 140 villages, of which ninety-five are held on some kind of shares, and forty-five are mere aggregates of squatters and held, of course, by possession only. But of the ninety-five, it seems that only fifty are village groups descended from a common ancestor, and of these twenty were held undivided ; divided (twenty-two); or with modified shares in place of ancestral shares (eight). The condition of the forty-five villages suggests either their foundation by co-operative colonies, or their being disorganized villages in which the Rájput proprietary classes only retained certain lands, not the whole estate. Out of twenty-eight of this class, ten villages consist of various castes and eighteen of the same caste, holding on some customary method of sharing ; in only eight villages shares are now unknown, and in nine they are known but are falling into disuse.

It is curious to note that where the proprietary families were falling out of position, some of them managed to retain a small due (which was doubtless conceded with a view of conciliation), called 'ser-mani,' one ser of grain in the maund, which exactly recalls the overlord dues taken by the 'zamíndárs,' or overlords, in Sindh and South Panjáb, when these families were not in actual possession of the land or its management. So naturally do institutions repeat themselves under widely different local conditions, but where some of the circumstances are the same.

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[1] Mr. L. Saunder's, p. 67.

[2] This was separately settled and has a separate Report (Mr. Roe's).

§ 7. *The Jálandhar Doáb.*

The two districts in the plains between the Biás and Sutlej do not really require any separate notice. In Hushyárpur it is noted that the villages are the 'same as in the Panjáb (i. e. what I have called the "central tract") generally.' Jats and Rájputs are prominent throughout the Doáb, and also the Aráín caste or tribe, who are met with in somewhat limited numbers, but still commonly, in other districts.

The villages are divided as elsewhere into 'tarf,' or major divisions, and then into 'pattí,' as the next; the minor family shares are 'thok,' 'zail,' or 'dheri.'

There is everywhere the same process of division, and the gradual loss of the strict shares.

The noteworthy feature which the Jálandhar *Settlement Report* (Mr. Purser's) brings out, is the fact that the old 'democratic' method of dividing by conventional 'hal,' or ploughs, was common. This once more recalls the bhaiáchárá of Benares and elsewhere. 'Great care was originally taken in giving each man his share, so that all might enjoy equal advantages of soil and situation; the whole area being first divided into blocks, and each sharer getting a portion in each block.'

This method is the one we have everywhere seen followed in certain tribal settlements; but it is also observed in cases where a promiscuous body of colonists have obtained leave to settle on available waste.

I must take occasion to note that in this (Jálandhar) district there are cases of 'málik qabza,' i.e. of persons, not members of the proprietary body, admitted to proprietary right as regards their own plots of land; but their origin is different from what it is elsewhere. Hitherto we have found this right to have been formulated at Settlement, in Hazára, Ráwalpindí, Gujrát, &c., either as representing the case of old landholders, once owners of the whole estate, but borne down (generations ago) by incoming conquerors, or as representing tenants and settlers who so long bore equal burdens with the nominal proprietors, that their prescriptive right was equitably recognized by this device : here we find them to consist of *descendants* of *village servants* who, for many generations, had held rent-free, and had acquired a position which deserved to be stereotyped and placed beyond the reach of tenancy suits in court.

SECTION V.—THE CIS-SUTLEJ DISTRICTS.

§ 1. *Reasons for Separation.*

It is rather because of their position on the map, and for a few peculiar features, than from any general dissimilarity, that I have separated these districts from the Panjáb proper. Starting from Fírozpur, we pass to Lúdiána, Ambála, and part of Karnál (once the Thanesar and Kaithal States), and then come to the territory along the Jamná,—Karnál, Delhi, Gurgáoṅ ; and then, turning once more, we pass Rohtak and Hisár till we come back again to Fírozpur (that part of it which was once the Sirsá district abolished in 1884). In the middle of this irregular circle is the large and equally irregularly-shaped area formed by the 'protected' feudatory States of Farídkot, Malérkotla, Nábhá, Patiálá, and Jínd.

§ 2. *Fírozpur.*

For the Fázilká portion of this district reference must be made to the notice of Sirsá tenures (under Hisár) further on.

The Mukatsar portion of the district was mostly desert, except in the northern portion along the Sutlej. But the Sirhind Canal now crosses it a little below the middle. The *Settlement Report*[1] takes no special notice of the tenures.

But the whole district has evidently been, like other parts of the Panjáb, the home of tribal groups and families who originally settled in the 'Bet,' or tract by the river, where cultivation was fairly secure. In Mamdot, it is noticed that 166 villages acknowledge ancestral shares in their holding, 78 have customary shares, and 21 villages a mixture of both.

Along the Bet, the Dogar Rájputs, and a tribe called Naípál

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[1] The last or old Report. Mr. Francis' Report of the 1888-9 Settlement is not yet published.

(who came from the Sirsá country) established themselves. The Naípáls occupied and colonized an entirely desert and vacant 'iláqa' and so remained till interfered with by these Sikhs.

The Dogars, like many Rájput (or mixed Rájput) clans, were more pastoral in their habits, and employed other tribesmen and settlers to cultivate for them; this, under Sikh rule, led to a good deal of loss of power, for the Sikhs took the revenue-share direct from all classes on the land, irrespective of right and title.

A great many estates were founded by settlers on 'chaks,' or allotments, of waste land.

This district (Fírozpur) is noticeable for a late colonization by Jats, who established villages *held on shares.* The villages seldom date more than sixty or seventy years back, which shows how deeply engrained tribal customs are and how long they last.

§ 3. *Fírozpur—Village Foundation by Agricultural Colonists.*

The following description[1] well illustrates the practice of colonization both here and elsewhere in the Panjáb:—

'A certain number of *zamíndárs* would determine on migrating from their native village. One or two of their most influential men would then go to the *Kárdár*, or ruler of the country, and make an agreement with him for acquiring possession of some one of the numerous deserted sites with which the country was covered, and the land attached to it. The agreement on the part of the *zamíndárs* would probably be to pay a certain share of the produce of their fields, generally small at first and increased afterwards; and on the part of the *Kárdár* to grant them a certain quantity of land rent-free, either in payment for their services, or in acknowledgment of their proprietary right, to whichever cause it may be attributed; a *nazarána* or present of a horse, or of a sum of money, would be given at the same time by the *zamíndár* to the *Kárdár*. The rent-free land was called *inám*. The *Kárdár*, as far as he was concerned, would probably only confer it on the two or three influential men who appeared in his presence;

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[1] From the *Gazetteer* of the district (1883–84), p. 55.

but among themselves they could agree to divide it in regular shares; sometimes every one of the original occupants would possess a share, in other instances only a limited number of them, while the light rates fixed for the land they might cultivate would be a sufficient inducement for others to settle in the new village without requiring a share in the *inám*.

'The first thing the new settlers set about is to select a site for their village. They never build their houses on the old deserted site, for this, they say, would be very unlucky, the first settlers having long ago taken all the *barkat* ('blessing') out of that spot. The laying the foundation of a village is called, from the ceremony with which it is accompanied, *mori gáṛná*. This consists in planting a pole to the north side of the intended habitation; the neighbouring *zamíndárs* are invited to be witnesses, and sweetmeats are distributed among them. To have borne a part in this ceremony is considered the strongest evidence in support of proprietary right. If the pole should take root, and put out branches and become a tree, this is considered a most auspicious circumstance; the tree is then always called the *mori* tree, and is regarded with great veneration. In the uplands, a branch either of the *jand* or of the *pilú* tree is always taken for the *mori*; in the lowlands the *beri* is generally used; it must be always some fruit-bearing tree. The *mori* is generally eight or ten feet high, and is planted about three feet in the ground, beneath it is always buried some rice, betelnut, *gúr*, and a piece of red cloth. They next build a well, in the expense of which all the new settlers join, and pay for it in the proportion of their shares in the village.

'The next process is to divide the village land by lot in accordance with the ancestral shares of the different castes or families who have founded the village, or with any other system of shares on which they may have agreed to distribute their proprietary rights. For this purpose the whole area is first marked off into two or more primary divisions called *taraf*. The *tarafs* are then subdivided again into two or more portions called *patti*, and the *pattis* again into *lari*. There are not, however, always so many subdivisions as those here referred to; the number depends upon the size of the village, the castes, the families, the party feelings, and such like circumstances. Sometimes there are three orders of subdivision, sometimes two, sometimes one, often no primary subdivision at all, just as the circumstances of the case may require.

'The last subdivision, whatever it may be, after deducting, if necessary, a sufficient quantity of land to be held in common for grazing purposes or for cultivation by non-proprietary residents, is then apportioned in separate shares. These shares, as being the most convenient size, are usually made to represent the quantity of land which can be cultivated by a plough, which is generally about thirty *ghumáos*, but which varies with reference to the nature of the soil, the breed of cattle used in ploughing, &c., &c. The shares are consequently always called 'ploughs,' but they have no *necessary* connection with the quantity of land capable of cultivation by a plough. Where the fractional shares have in the course of time become too minute for the comprehension of the villagers, I have known them solve their difficulties by doubling the number of ploughs, without making any increase to the cultivated area. In other instances I have known the proprietors divide the lands reserved for their own cultivation into smaller ploughs, and that apportioned to non-proprietary cultivators into larger. Thus, both proprietary and non-proprietary cultivators paid by *báchh*, nominally at the same rate, but in reality the latter were assessed much higher.

'The distribution of *pattis* and ploughs by lot, usually took place in the following manner. Balls, made of cow-dung, were used for the lots, in which each shareholder placed his mark, either a piece of cloth or pottery, or a ring, or anything else by which he might be known. The order in which the lands were to be taken was fixed beforehand. A little boy or an ignorant person, was then called to take up the lots, and whosoever's lot came out first did not get his choice of the lands, but took the first number on the list as previously fixed; and so on with the rest of the lots. The primary subdivisions or *tarafs* were of course first fixed, and in this the whole village was concerned. Then the members of each *taraf* cast lots for the *pattis*; the members of each *patti* for the *laris*, and, lastly, the members of each *lari* for the separate shares or ploughs.

'After a few years of grain-payments, and when a village had acquired stability, it was usual for the Sikh Government to fix a money assessment; at the same time the land *inám*, in possession of the headmen, was usually resumed, and a money allowance given instead of it. The *inám* often amounted to 20 or 40 per cent. on the revenue demand, and was never less than 10 per cent. The headmen in their turn were obliged to make their own bargain with the other shareholders; they could not keep the whole of the *inám* for themselves, though they of course took care to retain the lion's share.

'In some villages the distribution by lot which was made at the commencement, has lasted to the present day. This is the case particularly in the *Márí-'iláqa*, where the revenue has always been very light. But, as a general rule, under the Sikh administration, many subsequent distributions have taken place in order more easily to meet the Government demand, and to fill up shares which had been abandoned in consequence of its heavy pressure. In these distributions all traces of the original shares have usually been lost, the original proprietors retaining in their possession only so much land as it was worth their while to cultivate, and making the remainder over to new cultivators whose status in time came to resemble their own.

'At the Summary Settlement no change was introduced in the mode of distributing the revenue demand, which still continued to be paid by a rate (*báchh*) on ploughs or other shares recognized by the people. As to the *inám*, great diversity of practice prevailed prior to the Regular Settlement, when, owing to the complexity of accounts which would have been involved by the registration of claims now infinitesimally subdivided, and hence practically valueless, a general resumption took place, special allowance being made during the lifetime of certain individuals.'

§ 4. *Lúdiána.*

This district was apparently held by Rájputs when the Afghán Bahlol Lodí conquered them and gave his name to the district. And Rájput villages still survive, though they have become much mixed in the course of years; the Settlement Officer speaks of villages still keeping up the 'fiction of descent from a common ancestor[1].'

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[1] Revision S. R. (Gordon-Walker's), p. 79. In their present mixed state it would, of course, be a fiction; but originally, no doubt, a common bond did exist.

Jats also settled largely along the Sutlej; in some parts, in groups of several different 'gôts,' or clans, but in others in large bodies of the same 'gôt[1].' They divided out the land regularly. The villages show division into 'tarf' or 'pattí,' and these further subdivided into 'túla' (lots). The actual lots of division were conventional ploughs (*hal*)—a number to each family according to its strength. Sometimes, where the natural inequality of soil demanded it, there would be first a classification of soil (which we have so often noticed) into blocks or circles for division, and then the allotment of shares or 'hal' would be represented by bits scattered through each block.

What is remarkable is, that, though the old shares are generally abandoned as a measure of right and revenue liability, they are still remembered and used in dividing village profits or meeting casual demands, as for '*malba*,' or common expenditure of the village body. The Sikh adventurers, who produced so much trouble in the next district, did not here touch the existing villages; they found unoccupied land enough for themselves and their followers to settle on.

§ 5. *Ambála.*

What is remarkable about this district is the effect the different Sikh chiefs and their following had on the villages. What those villages were in themselves, the authorities do not afford much information. From recent assessment reports I observe, however, that Jats, Rájputs, Gújars, and Aráíñs are the chief tribes. The Aráiñ villages occupy a tolerably continuous and large area in the Ropar tahsíl. Chauhán Rájputs hold a considerable area (and very bad cultivators they are) in the Ambála tahsíl. Jats occupy more or less compact and considerable areas in many parts of the district; and there are Sainís scattered throughout, Brahmans and Sayads holding smaller groups of territory. In nearly every tahsíl we find the same facts repeated; the Sikh companies conquered and divided up the territory[2]. For the greater chiefs they

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[1] Revision *S. R.* (Gordon Walker's), p. 46.

[2] The following extract is from the *Administration Report* of 1849–50, § 420 seq. :—

'When the young Sikh nation formed itself into twelve *misls* or confederacies, one *misl* styled the Phulkiyáñ, occupied the territories south of the Sutlej and were called the Málwá Sikhs in contradistinction to the Mánjhá Sikhs who held the formed Rájás' 'domains' like Thanesar, Ladwá, and Kaithal (now extinct), or like Jínd, Nábhá, and Patiálá, still flourishing feudatory States. But, besides these, a host of minor chiefs and mere troopers of Sikh horse, took possession of villages. Where they were strong enough, they exacted an overlord's due from the villages, and more rarely occupied the land itself: in such a case they called themselves 'biswadárs'[1]. Where they could not succeed further, they compromised with the villagers for a 'chaháram,' or fourth of the ordinary revenue payment; or two rival Rájás would compromise, taking each a portion of the revenue. The chaháram was enjoyed in shares, so much to the leader, so much to the heads of companies, and so on.

At our first Settlements, all those overlord rights, where they had been fixed so long as to have become prescriptive, were so far recognized that the villagers were settled with as the proprietors, and the overlords given a cash allowance out of the revenue. As the original 'chaháramís' have, in the course of years, multiplied into numerous descendants (now called 'jágírdárs'), the allowance has become still further divided into innumerable petty shares; and special rules have long been in force as to the succession by inheritance to such shares. The sharers in the jágír income (many shares are as low as one rupee) are called 'pattídárs,' exactly as if it was a land share.

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central country north of the Sutlej. Several of the northern confederacies, however, crossed the Sutlej and overran portions of the Sirhind territory. These . . . . *misls* thus settled south of the Sutlej were not bound together by any federal union. . . . Every *misl* became subdivided. In each, certain families would combine and send forth parties of horsemen to conquer tracts of country. In the villages thus subjugated, each family would take its share according to the number of horsemen it had furnished to the expedition, and the portions thus parcelled out were called by the name of "Sawár," or horsemen's shares . . . The subdivisions were about 60,000 in number: in size and importance they varied from the sovereignty of Patiálá worth twenty-five *lakhs* a year, to the pettiest lordship or barony consisting of the tenth or twentieth share in a single village . . . . The conquerors were a governing body who had won by the sword not lands but revenues. The landholders while they paid taxes to the Sikh chieftains enjoyed their full right of proprietorship. In some few instances indeed, the Sikhs did eject the proprietors and seize upon the land. But such cases are only exceptions to the rule which limited Sikh interests in an estate to its revenues.'

[1] It is curious that here the word should be applied to the *superior* right, whereas in Delhi and elsewhere it is (more naturally) applied to the inferior right—that of the actual soil cultivators, who have been left under a 'taluqdár,' or some greater overlord.

SECTION VI.—THE DELHI DISTRICTS, (S.E. FRONTIER.)

These districts were originally part of the North-West provinces, and consequently in some cases exhibit features (such as the grant of proprietary rights to farmers, &c.) connected with the North-Western system. We may at once proceed to notice the features of the tract, district by district.

§ 1. *Karnál.*

Part of this district was formed out of the old Sikh States of Thanesar, Ladwá, and Kaithal. That which interests us, under the particular group of territory we are considering, is the portion represented by the Karnál and Pánipat tahsíls. The facts about tenures are here preserved for us in the able *Settlement Report* by Mr. Ibbetson.

Originally, as might be expected from its proximity to Pánipat and Delhi, this district had been the seat of Rájput chiefships, and these had been alternately protected and oppressed by the Mughal power, till in Aurangzeb's reign a number of them were forcibly converted to Islam; then the chiefships dispersed, and many of them broke up into village proprietary estates and many scions of good families wandered away to new districts. There were, however, other settlements,—a few relics of the early Afghan invaders and some families of a curious sect of Brahmans known as 'Tagá'; while the ubiquitous Jats had apparently only recently formed colonies there, as they are not mentioned in Akbar's time. The Jats are noticed as independent in character, 'and acknowledging less than any other caste, the authority of headmen.'

There were traces of tribal allotment of lands, and even of a periodical redistribution of holdings. The village shares are 'paná' (= a lot: *paná márna*, 'to cast lots'), and the smallest subdivision is the 'túla' as elsewhere.

It is noticed in this tract (and the same is true of Ambála) that an expansion of territory of any given group might soon occur, by the plan of establishing outlying hamlets (called 'májra'[1].) The families seem to have somewhat readily admitted relatives by marriage, and even outsiders, into their settlements, as the phrases 'bhúiṅbhai' (brother in the soil) and 'bhai karke basáyá' (he settled him in the village, having made him a brother or co-sharer) sufficiently indicate.

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[1] This will be found as a termination to names: e. g. Maní-májra in Ambála.

The term 'tappa,' which we have before noted as indicating a local grouping of a few villages[1], here seems to apply to the little group of territory formed by the parent village, together with its outlying 'májra,' or hamlets.

§ 2. *Karnál Grants.*

When Lord Lake's campaign had resulted in the treaty of Sarjí-Anjangám (December 30th, 1803), the portion of the Karnál district immediately adjoining the Jamná River was part of the territory ceded.

This with the other districts immediately beyond, was intended to be held under merely political control, the actual management being placed in the hands of grantees and chiefs as jágírdárs of the British State. The grant of the Karnál pargana to the Mandal family under the title of an 'istimrárí' or perpetual grant (i. e. not liable to revocation), has given rise to some legal difficulties[2].

It would be beyond my purpose to go into details on the subject, but it may be mentioned that while the grant is worded on the supposition that the grantees would manage the whole revenue without trouble to the State, it was very soon found that they managed so badly that a British Revenue Settlement was necessary. Further, the grant has this effect, that the grantees, though they are merely assignees of the revenue as regards the existing villages in the pargana, became owners of those they might create in the waste, or might occupy and restore when (as was formerly often the case) the lands had been abandoned[3]. The grantees have therefore become to some extent proprietors. It was also a question whether the holder *pro tem.* of the grant (being a proprietor) the heads of the original villagers, and we find these as the ''alá málik' class, and the original villages as the 'biswadárs,' or inferior owners.

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[1] Forming a subdivision of the 'pargana' for administrative purposes; and often (as on the frontier) indicating the territory of a minor subsection of a tribe or clan.

[2] See the Karnál *S. R.* for the text of the grant. The whole subject was discussed in a judgment of Chief Court (Full Bench) in 1889.

[3] Our earliest revenue Settlements were very unfortunate; they were pitched much too high owing to erroneous *data* derived from the Records of the Sikh States; the result was that many villagers abandoned their lands.

A fair number of the villages retain their ancestral constitution, with some peculiarities[1], and about an equal number (375) are 'bhaiáchárá' (held on possession only).

§ 4. *Gurgáoṅ.*

This district occupies the extreme south-east corner of the province. It is distinguished by having a large number (387) of villages of a peculiar tribe called 'Meo,' and supposed to be 'aboriginal' (bhúmiyá). There are also Ahírs settled in some numbers, and 181 Ját villages (here actually called Ját). We find, as elsewhere in this territory, that village shares are called 'paná' or 'lots,' and some few are held on a system called 'paná-palit' or lots to be exchanged.

Throughout this territory I notice two peculiar forms of rent-free grant, for village-servants and others, and for religious persons: 'bhondá' is the secular grant and 'dohlí[2]' for religious persons or purposes.

§ 5. *Rohtak.—Villages founded in the Waste.*

This district also belongs to the same group, but it is remarkable for its large preponderance of Jats, who hold 366 out of the 511 estates of which the district consists. The villages are large, the average being 2244 acres, with 1076 persons in each. The Jats here are members of twelve different 'góts' or clans, and there are no less than 137 minor subdivisions.

'The traditions of three-fifths of the existing villages,' says Mr. Fanshawe, 'state that they *were founded in waste jungle, and on former sites whose previous lords have been forgotten.*'

Of the older villages, some are Rájput, others Jat; and a few Brahman, Afghán, Rángar, Gújar, and Bilúch villages also

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[1] Out of 339 villages returned as 'pattidárí,' we find—

(a) Regularly divided on some form of share . .	189
(b) Primarily divided into pattis by ancestral shares, but *inside* the pattis, the holdings are irregular	147
(c) Primarily divided into *pattis*, and held in common within the pattis .	3

[2] This is referred to do-hal, or a grant of 'two ploughs' of land, which was an ancient customary amount of rent-free grant mentioned in Manu.

occur. The earliest of the Jats came thirty-five generations (or 700 to 800 years) ago; such is their tradition; and they further hold that they are Rájputs who lost caste by adopting the 'karewá,' or marriage of widows, and that they came from the east,—that is, were a return-movement, not a direct immigration from a home beyond the North-Western frontier[1].

As a rule the tribes are settled in groups, or the tribal subdivisions are found on one spot.

Under these conditions it is not surprising that John Lawrence should have written in 1844—

'In no part of the North-Western Provinces[2] are the tenures so complete . . . as here; . . . the ancient village communities are in such excellent preservation. They are admirably adapted to resist the evil effects of bad seasons, epidemics, and other evils incidental to the country. . . . Drought may wither their crops; famine and disease may depopulate their houses; their fields may be deserted for a time; but when the storm blows over, if any survive, they are certain to return.'

It would seem that the present groups of villages are usually gradual growths or expansions from a central village originally founded in the midst of a wide undefined area; the cultivation extended, first round the original foundation, and then, in time, round the off-shoot villages; in the end it became necessary to define the boundaries and separate the rights of each as so many separate estates. Originally the whole area was regarded as belonging to the occupying clan collectively, while each co-sharer owned so many shares—so many 'biswas' or 'ploughs' or 'anas,' whatever the shares were called—in the collective estate[3].

True to their dislike of individual headmen and chiefs, the Jat villages were always managed by their 'panch' or committee of elders (heads of families). They sometimes trace descent to a common ancestor; sometimes the divisions of the co-sharing group are connected by marriage only; and in many cases they formed a merely co-operative body at the founding. As might be expected, the local subdivision of *parganas* called

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[1] See p. 614 ante.

[2] Rohtak, as well as the other districts in the group, all belonged to the North-Western Provinces before 1858.

[3] It was probably in this way that the great villages in the Jihlam district (p. 668 ante) were held. In no case do we trace a stage when the whole was held collectively *without* defined shares to which each family considered itself entitled absolutely.

'tappa,' and consisting of the group of the parent village with its surrounding offshoots, occurs in this district also.

§ 6. *Hisár and Sirsá.*

The remaining districts along the south-eastern border of the province are now properly described as 'Hisár and part of Fírozpur'; but in this paragraph I may still speak of 'Sirsá,' because there is an excellent *Settlement Report* of Mr. James Wilson's on the district Sirsá as it then was (1883). The main feature of the whole tract is the re-colonization of deserted country, in recent times, by groups of cultivators, among whom, however, the 'proprietary' are distinguished from the 'karsán qadím' or tenants who took part with them in the founding. The few 'zamíndárí' villages that exist, are here of the North-Western Provinces type,—i.e. villages originally farmed to individuals who have now become landlords. In other villages there are groups consisting of the remains of older proprietary bodies mixed with new settlers, and forming (officially) 'bhaiá-chárá' bodies—with the least possible reference to the original meaning of the term.

The whole country was, at the beginning of this century, an uncultivated prairie, and it was reclaimed much in the same way as the Fírozpur tracts already described. An intending colonist would go to one or other of the rulers to be found in the neighbourhood, and to whom he owed allegiance, and for the sake of his protection and countenance, obtain a grant. Furnished with this he would consider himself the chief man above his companions.

'The colonist' [says Mr. J. Wilson] 'would then gather together a body of his relations and dependants and proceed to the neighbourhood indicated, and there found a village in the prairie. Usually the site chosen was close to some natural hollow in the ground where the rain-water would collect, and which could easily be made into a permanent pond[1], and the new village was generally founded with some ceremony. The colonists consulted their Bráhmans as to a lucky day for the rite, and on that day assembled on the site selected, and then the Bráhman kindled a sacrificial fire (*hom*) with the wood of the *jand* tree, and burned in it clarified butter, sesamum, barley, and perfumes ('dhúp' and 'bálchharí'); and after feasting, some Bráhmans—the leader (or headman—*mukhyá*)—planted a stake (*mori*) of 'karíl' wood (*Capparis aphylla*) in the ground; and the other colonists each planted his own stake (of 'karíl') round this before beginning to build his own house. The colonists who were present at this ceremony and assisted in the actual founding of the village, were called 'stake-planters' (*mori-gaḍ*) and considered to be the original settlers. The neighbouring fields were rudely tilled, and sometimes a small tower (*burj*) was erected for the protection of the crop[1].'

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[1] The village ponds are commonly made (or enlarged and deepened) by the baling out of mud and clay to form the sun-dried bricks or lumps of which the houses, walls, &c., are built up.

Apparently they adopted no specified boundary to begin with, and one had to be defined at the Settlement in 1837. The excess waste areas were afterwards separated off at the regular Settlement of 1852–63; and very often the original village undertook the Settlement of the separated area, and so several contiguous villages held by the same people, have come into existence. And so within the villages:—the right of individual cultivators was at first *undefined*. Land was so abundant that there was no call for a division. Probably it was a case of 'kásht ḥasb maqdúr'—each man took what he had ploughs, cattle, and labour to clear and manage. In settling the distribution of the revenue burden, the villagers made a rough measurement with a rod or chain of seventy-two 'háth' = forty-four yards, and adopting a square of which the side was one such chain, as the unit. The revenue burden was distributed in proportion to the number of units held by each. When other cultivators joined, the leaders of the original colonizing body were called the 'panch.' Probably the eldest of them received an honorary turban on the grant of permission to found the village, and he was allowed two 'ploughs' of land free of revenue[2]. Afterwards, and for the purposes of the modern Settlement system, such a headman was recognized as the 'lambardár,' and his land was assessed, but he was allowed the usual 'pachotra' or 5 per cent. on the revenue, collected extra from the villagers. Beyond this he had no rights: the cultivating proprietors took up more waste to cultivate as they wanted it, without the headman's control or permission, in any way.

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[1] Mr. Wilson gives some curious information as to the *naming* of the villages, *S.R.* (pp. 312-13).

[2] Note this custom as similar to the ancient one mentioned in Manu. See vol. I. p. 254.

But in some villages a single headman had originally obtained the settler's grant in his own person; and then, of course, he and his sons assumed a superior position. The cultivators had to pay rent (*bolá*) to this superior family, and had nothing to do with the profits and losses of the village administration. Where this happened, the village was said to be 'boledárí,' in contradistinction to the others (bhaiáchárá), where the settlers were all equal. At the first Settlement, a number of headmen were recognized (even in bhaiáchárá villages) as the 'proprietors,' putting forward claims which were too readily listened to[1].

The older cultivators were recognized as hereditary or 'old (qadím) tenants,' if they had held for ten years (that was the period arbitrarily chosen). Those of less standing were called 'jadíd' or new tenants. Both were 'occupancy' tenants, however; only that one could sublet and the other not: the hereditary right was coupled with the condition that the heir must settle in the village. In a country like Sirsá, where rain often fails and bad years come in a series, cultivators are not easily persuaded to be permanent; they come and go as it suits them. In the Settlement of 1852–63, 27 per cent. of the cultivated area was held by 'proprietors,' 67 per cent. by 'occupancy-tenants,' and 7 per cent. by 'tenants-at-will.' But the 'occupancy-right' had a limited value; and many gave up their land from time to time.

The Settlement also gave the *waste* to the village 'proprietors,' so that the non-proprietary cultivators could no longer take up whatever they pleased or required: they had now to ask the leave of the small proprietary body, and probably pay rent; moreover, as this would be new cultivation, the holders could only be tenants-at-will in respect of it. The result was that, at the last revision of Settlement, many less occupancy-tenants appeared and many more tenants-at-will.

As I am here dealing with proprietary tenures I must not digress into the tenant-right difficulties that arose in Sirsá under the law of 1868 [1]. In brief, I may mention that this law did not recognize the twelve years' rule giving occupancy-right which had been in force so long as the district was attached to the North-Western Provinces, at the same time it did contemplate the eviction of tenants-at-will. Now in Sirsá, tenants, whether called 'tenants-at-will' or not, were equally secure from being ejected, if custom was regarded.

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[1] This is amusingly described in a popular verse, of which this is Mr. Wilson's literal translation:—

'All the brothers came together;
They settled the desert prairie,
And put the turban on one man's head.
He became headman (*lambardár*).
The ruler issued orders to him.
The headman lost his good faith;
Even to his own brother born of his mother and father
He gave nothing.
No love or affection remained.'

SECTION VII.—THE HILL DISTRICTS.

The tenures mentioned in this section form a subject apart; and it was really immaterial whether we described them at the beginning or left them to the last. The section includes the British district of Kángrá with its subdivision Kulu, and also a number of Chiefships and States more or less independent, all within the Himalayan range, occupying both the hill-sides and the valleys.

Here, whether we look to Chambá, which is a feudatory State, or to Kángrá, which is British territory, or to the protected States in the Simla hills, we find no 'villages' in the ordinary Indian sense, and consequently, unless they have been created at Settlement, no joint-proprietary communities over villages.

We may feel sure that from a very remote date the whole of the territories were divided up into larger or smaller States under Rájput Rájás, as they are to this day. The States individually, however, were subject to change, as the result of war and other accidents. At one time, for example, all the country from Jamú to Basáhir was under one Rájá [2]: now it forms several 'kingdoms.' As usual, the Rájá has his royal demesne, and smaller portions of the country are held in feudal subordination to him, by Ránás, Ráos, and Thákurs.

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[1] A good deal of litigation ensued. It was this state of things (among other causes) which led to the revision of the Tenant Law in 1887. The difficulties as regards Sirsá are explained in the *S. R.*, p. 339, §§ 227-8.

[2] Mr. (now Sir Jas.) Lyall mentions that in the seventh century the Chinese traveller Hwen Thsang found all the hills from the Rávi to the Sutlej forming the kingdom of Jálandhára. Afterwards Kángrá became the head 'Ráj' over Chambá, Kángrá, Mandi, Suket, Kulu, &c.

The present Rájás and the pure Rájput families, both in Kángrá and the Simla hills, probably only date back a few centuries, viz. to the time of the Muhammadan conquests[1]. But it is curious to note that in Kángrá at any rate there is a tradition of there having been a *still earlier* dominion of 'Ránás' in the hills—Rájputs of the first Aryan immigration or conquest.

The Rájput chiefs and families of pure blood are only a very limited number. They are essentially the overlord families, and their caste does not anywhere form the bulk of the population[2].

In the States, the Rájá or the Thákur, each in his own domain, claims to be universal landlord, and takes a fee on a succession or on ratifying a transfer of land, and takes his revenue or grain-share from all in his dominion, as well as grazing-fees or other tolls and taxes.

As to the origin of the tenures, all we can say is, that in the remote past certain bodies of superior-castemen conquered the country and settled down in the abundant waste and forest which filled the valleys and clothed the sides of the hills. We have no trace of any original allotment of *holdings*; nothing below the territorial division of chiefships: apparently each settler, not of ruling rank, took what land he liked. The present (descended) landholders speak of the land as their 'wárisí'—that which their fathers conquered, and which was appropriated by clearing the waste[3].

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[1] In Simla the chiefs all preserve what they call their 'nikás,' or table showing descent and origin of their family; and they all are from Rájputána.

[2] For a list of the clans of Kángrá Rájputs in their main divisions, see Barnes' *S. R.*, §§ 262-269. It is evident from the way in which the Rájás and pure Rájputs are scattered sparsely in estates over the country, they had come into the country with *bodies* of *dependants*, fighting-men, &c., who settled in the country in an inferior position.

[3] See Barnes' *Kángrá Report*, § 124, p. 40. 'I believe,' says Mr. Barnes, 'that the term properly applied always only to descendants of the original settlers' [and he might have said conquerors] 'who by their industry and enterprise first reclaimed the waste. I have known cases where the present incumbent has held uninterrupted possession for thirty or forty years; but he will not assume, nor will the people concede to him, the appellation of "Wáris." If asked whose land it is, they will still refer to those traditional persons in whom the right was once known to reside.' In

Each settler having originally established himself on such a hill-slope as he could clear and terrace, there gradually grew up a hamlet of a few houses for the owner and his dependants and afterwards for some of his tenants. In the Simla hills, we find a group of such hamlets called a 'bhoj,' under a headman[1], but that was an administrative division. In the States generally, the country is also divided for similar purposes into 'kothís'—that is, tracts the grain-revenue of which is collected in one central 'kothí' or State granary, in which also official business is daily transacted, and perhaps such justice as is required by a simple people, is dispensed[2].

In Kángrá we have some diversity, because the outer valley or level portions of the district formed part of the Mughal Empire (1556 A.D.); and there are traces of the old States (Haripur and Núrpur for instance) being made into *parganas*, which were subdivided into 'tappas,' these subdivisions being doubtless groups of hamlets having some local or tribal or proprietary connection. There were certainly chaudharís of *parganas*; and it is interesting to note that these too had a 'wárisí'—resembling the 'watan' holdings of Central India,—i.e. lands held in virtue of their (hereditary) office. In the level portions of Kángrá, we find villages more like those of the ordinary type, held by proprietary families in groups. The division of the country into 'taluqas' is also everywhere known—these being the

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another place (§ 32) the author notices that this right is supposed never to be lost by lapse of time.

[1] Simla *S. R.*, § 68, p. 6. In Kulu the country was divided for administrative purposes, into 'Wazírí' or tracts under a wazír or minister (and so in Basáhir). The Wazírí was divided into 'kothí,' and then into 'páthí,' which consisted of several hamlets or 'grám.' Wherever there is any kind of State organization, we may be sure to find a *headman* of hamlets or villages in some shape.

[2] The traveller in the hills must often have seen these great, solid, square buildings, often with picturesque peaked roofs and carved gable-ends, forming four sides of a square, with an upper gallery and a great doorway, and have been told that it was the Rájá's 'kothí.' Usually such a building is in one of the larger villages with a handsome temple or two about it. Perhaps we could get some clue to the real date of the conquests of the Rájputs by finding out the date of the old stone temples with their conical domes and *amlika* tops (*vide* Fergusson, *History of Architecture*), just like those in Orissa. Perhaps also the importation of Perso-Arabic terms like 'wazír,' 'wárisí,' &c., may give some clue to dates.

Hindu divisions (and, Mr. Barnes says, very ancient)[1]. They probably indicated the limits within which the different chiefs had authority, and possibly also the subdivisions of the earlier Rájá's domain. Mr. Barnes notes that when Kángrá was ceded in 1846 the Rájá had disappeared (under the Sikh conquest). We recognized some of the minor Rájás—Suket and Mandi, for example—as feudatories, and some of the subordinate chiefs—Lambágráoṅ, Kulu, &c.—as jágírdárs under our Government.

The right in land of the 'wáris' was only regarded as transferable by inheritance, or by gift in case a man had no heir. It was not sold. The waste and forest belonged—as indeed all other land in a State did—to the Rájá. When Kángrá was settled, the hamlets were made into revenue mauzas and dubbed 'bhaiáchárá' villages, as Mr. Barnes describes. The 'community' was constituted by allotting to them *in common*, the waste and forest in the vicinity[2]. Though the people had originally no *ownership* right in this waste, they had a permissive or a prescriptive *user*, just as Mr. Benett mentions they had in the old Oudh States. This user (grass and wood for building, for making implements, and for fuel) is spoken of in Kángrá as 'bartan[3].'

It should also be noted that in Kángrá there is a numerous class of shepherds, known here (and in Chambá) by the name of 'Gaddí'; they live by grazing sheep (as the Gujárs of the hills do by keeping buffaloes and horned cattle), and these regard themselves as entitled to graze over certain known areas, paying a toll to the ruler. And they also speak of such grazing-grounds as their 'wárisí[4].'

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[1] The *name* is Perso-Arabic, and therefore cannot be very ancient. See Barnes' *S. R.*, § 102.

[2] See a note on this in the chapter on Panjáb Settlements (p. 546, ante).

[3] In the Hazára hills the conquering tribes (Muhammadan of later origin) had not the same organization, but all the 'Wáris'' families divided the whole country that they occupied. The village bodies claimed an area of waste which they both used and owned, and call to this day their 'guzára'—that which enables them to live or get along. The essential, in hill countries, is wood for building and for fuel in the rainy and winter seasons, and grass for the cattle.

[4] Barnes' *S. R.*, § 129.

The Rájá's domain thus very much resembles what we have read of in Oudh, except that the Rájá does not here seem to have made grants of his rights in certain parts of his territory. The term 'birt,' so variously employed in Oudh, is well known in the Kángrá and the Simla hills, but only as indicating a grant of land held free of revenue for religious objects—support of the 'Devtá' or village deity's temple, and the like. The sons of the Rájá and his relations merely obtain permission to build themselves a 'kothí' somewhere, and establish their own 'wárisí' or holdings around it. I have never heard of the Oudh 'jewanbirt' among them.

It may well be imagined that with many Rájput holders of land—men whose caste prohibits their handling the plough—various forms of tenancy for the actual work of cultivation, exist[1]. The *Revision Report* of Kángrá gives full details about these. There is, for example, the tenant who farms with oxen and plough furnished by the landlord (chautikí, trihána, or atholu, according as he pays a fourth, a third, or an eighth of the produce to his superior).

There are, again, tenants residing on the land (opáhu), those residing in the hamlet or group, but not on the land; and those resident in a different hamlet. It is not necessary to go into further details. The right of the 'clearer of waste' is everywhere respected in these tenancies.

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[1] As I have said, the pure Rájputs form a minority; and the great bulk of cultivators in the hills are Ráthis in Kángrá and Kanets in Simla. Just the same feature is noticeable in Kashmir, where the Dográ is a mixed Rájput race. These are tribesmen probably of Rájput origin, but they have lost caste by taking to the plough and by marrying widows (karewá), and by taking money for the marriage of daughters. It has been questioned, however, whether the Kanet or Kaneti in Simla is of this origin. It is a curious thing that wherever we find pure Rájputs, we invariably find a great 'tail' of clans fallen out of caste, which were obviously derived from them. And this makes it, to me, so very probable, that really some 'Jats' are of Rájput origin in the same way. The Ráthis and the Kanets have lost nothing in physique, and they are as fine an agricultural race as could be wished.

SECTION VIII.—DOUBLE TENURE.

We have now passed in review the village-landlord tenures of land, and we have only to add an account of the rights of village tenants; but before proceeding to consider their history and rights, some remarks have to be added about tenures when regarded with reference to the number or gradation of the persons who have an interest in the same land. We have also to say something about the revenue-free tenures—how the State grant of interest in the Revenue may affect also the interest in the soil itself.

§ 1. *Taluqdárí Tenure.*

As regards the former of these two, we have seen in the Oudh and North-Western Provinces, what a number of double interests exist—the result of the growth of rights, if I may so speak, in layers, one arising over, but not altogether extinguishing, the other and earlier. In the Panjáb we have many instances of a concurrence of interests of this kind, or at least of what is closely analogous to it. Wherever we have a series of conquests—or one set of chiefs and their followers replacing another—we have this result produced, that one set of men become the overlords, and the earlier occupants sink into a greater or less degree of subordination, according as their character and circumstances have enabled them to preserve more or less of their original character.

We have often seen cases where a distinct set of tribesmen form the superior owners, ''alá málik,' in a village, and another set, the inferior, 'adná málik.' Where these two sets are complete, each has certain rights recorded at Settlement, and no practical difficulty is felt. Theoretically, there is a division of the benefits of ownership between the bodies. There is here no doubt a true case of double tenure.

In other cases we have noticed—what is really a more imperfect form of the same thing—estates in which there are not two complete bodies, but where, surviving under the now undisputedly sole proprietary body, we find traces of an earlier right, but confined to individual holdings of land, which have deserved to be placed on a higher footing than mere occupancy-tenancies, and so have been called tenures of the 'málik-qabzá,' that is, of a man who is proprietor *quá* his own plot, but has no share in the general proprietary profits of the estate as a whole, and no claim to share in a distribution of its common land, though he may have an acknowledged right of grazing therein. But of the double tenure in the complicated form it may assume in Oudh (for instance), the Panjáb hardly shows any examples. The Mandals of Karnál (istimrárdár) are to some extent analogous, for there the grantee may be direct owner as well as revenue-assignee of some villages, and only have contingent interests (beyond the revenue) in others. In the majority of instances the superior right is represented mainly, if not exclusively, by a money allowance. Indeed, if 'tenure' means some direct concern with land and its management, and not a mere pecuniary interest representing an undeveloped right over land, we may truly say that there is only occasionally a taluqdárí *land*-tenure, as it is described in Thomason's *Directions*; for in many cases where a single chief, or a body of descendants of a chief, claimed a sort of over-lordship over villages, they have been set aside with a certain honorary position and a cash allowance of 10 per cent. (or less) on the revenue, in many cases, without any control over the village or its waste, or its affairs generally. In other words, their right, however it originated, has received recognition in the form of a certain money profit or of a *quasi* pension charged upon the estate, but not in the form of any right over the land or the waste.

SECTION IX.—REVENUE-FREE HOLDINGS.

Looking at land-tenures from the point of view of the revenue relations with the State, the Panjáb might almost be called *the* land *par excellence*, of mu'áfídárs and of 'jágírdárs. It is true, here also, that many of their interests are more matters of money assignment than of any direct connection with land; but still, in other cases, they are sufficiently territorial to be dealt with as tenures.

A number of 'jágírdárs' have been handed on to our Government from the Sikh rule. It was the policy of that State to deal direct with the villages, and they therefore checked the growth of all such tribal chiefs and others as would, in other places, have absorbed all subordinate rights and become great and absolute landlords. But they could not entirely ignore either the local chiefs, or those belonging to their own confederation. They adopted the plan of making revenue-assignments, or allowances, and calling the grantees 'jágírdárs,' generally requiring some military service, i.e. that they should be ready to take the field with a body of foot and horse—which constitutes the real meaning of a 'jágír.' Then again a large number of jágírs have been handed down to our own Government not as created by the Sikh rulers, but as representing the remains of the chiefships and dignities of that Government. (See p. 606, ante.)

So that, what with religious and charitable free-grants and with all the historical jágírs of past times, the proportion of Panjáb land-revenue assigned is very large. Many 'jágírs' have been granted as rewards, or simply for the support of members of old and honourable families, or the spiritual heads of sects, like the Sikh 'Bedí' class or the Mussalman Saiyad and Makhdum. It is only necessary to examine the great body of orders and rules contained in the *Financial Commissioners' Consolidated Circular* (No. 37, page 300) to see what an immense business the 'jágír' question has been in the Panjáb.

We do not now require service from our jágírdárs as a condition of the tenure: and in some cases where such a condition was distinctly existent when the 'jágír' came up for confirmation, we have commuted it for a small money-payment in reduction of the jágír allowances.

In some cases the grant includes only the revenue-right in cash, or in rarer cases of grain, with a right to the jágírdár to collect it himself. In others the jágírdár has, and always has held, the proprietary right of the whole or a part of the land itself. But the jágír is always spoken of as a 'jágír of so many rupees annually,' meaning that revenue is assigned to that amount, or that the land granted is calculated to yield that amount.

Some jágírs are for life or lives, some in perpetuity: which it is, depends (1) on whether it is a grant continued on the same terms as those granted under former Governments, or (2) newly granted by the British Government, and what are the circumstances and merits of each case[1].

In all cases, looking at the matter from the tenure-point of view, it is a question of fact, whether the grantee has become, in any sense, proprietor; and the question arises especially, when the assignment ceases or lapses, and it has to be decided who is to 'be settled with' for the revenue that will in future be claimed. The *Circular* above quoted 'accepts the fact that the assignee's interest may have come to be something different from that of a mere assignee of Government revenue, and has in fact grown into a more or less complete proprietary, or sub-proprietary, status.' The grantee may have resided on the land and directly acquired fields: he may have made gardens, erected buildings and tombs, and have sunk wells, or made other improvements. He may be able to show particular facts which connect him with the land, and which entitle him to be called proprietor in some sense or to some degree[2].

In the 'cis-Sutlej States' the 'jágírdár' so called, was often not a grantee of any Government at all, but was simply a marauding chief of a Sikh 'misl' or group of confederates. I have to some extent described these

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[1] When a jágír is hereditary Government has a right (Act IV of 1872, section 8) to fix the rule of descent. A Civil Court cannot entertain a claim of right to a jágír, unless Government specially authorizes some question to be determined by suit (Act XXIII of 1871). This restriction of course applies to the question of the revenue-allowance, not to the right in the soil which may be held independently of any revenue question.

[2] As to the principles on which the existence of the claim should be investigated, see § 459 of the *Circular* (p. 356).

'jágírdárs' in speaking of the tenures in the Ambála district (p. 683, ante). I merely here add, that in the special cases where the chiefs took possession of the land of the villages, or of the waste country, they called the cultivated land 'sír'[1], and the waste 'bír.'

But in most cases the conquerors left the old village body in possession, claiming as overlords, a share in the rental called 'chaháram' or fourth share.

Under our Settlement arrangements, the jágírdár now receives the revenue, the original landholding communities or individuals being settled with and retaining full proprietary rights. He in fact is a mere assignee of the revenue, taking part of what otherwise would go to the State.

The greater of these chiefs had formerly pretensions to sovereign powers within their taluqa or share of the territory. All such (except of the really large States like Patiálá, Jínd, and Nábhá, &c.) were withdrawn in 1847[2]; and the chiefs retained the title of 'jágírdárs,' and hold on condition of loyalty and rendering service when required to the British Government. In all the minor chiefships, as I have said, every one of the conquerors had some share; such was the spirit of equality which prevailed among the Jat tribesmen who so largely recruited the ranks of the Sikh 'misls.' First, there was a share for the chief, and minor shares (pattí) for the 'horsemen.' These shares are inherited according to a special rule; no widow succeeds, nor a descendant in female line; and a collateral can succeed only if the common ancestor was in possession at a fixed date (1808–9), the date when the British Government took the chiefs under its protection.

§ 1. *Mu'áfí Grants.*

By a 'mu'áfí' is properly meant a remission (by royal grant) of the obligation of paying revenue on a fixed plot of land; and this was made often in favour of some religious person or institution, or for some past good service. According to the *original meaning*, the term implies that the holder of a plot of land is 'excused' from paying the Government revenue; and usually it would be the person's own land that is 'excused' from revenue-payment, or a grant of land at disposal of the State has been made 'revenue-free[1].' But in the older days, when proprietary right was less thought of, the State no doubt granted in mu'áfí a village, or plot of land which was already in the occupation of some one else. Here the mu'áfídár contented himself with leaving the original occupants in possession, but he took 'batái'—a share in the produce—from them. The practical distinction then came to be, that the jágír was a grant with condition of service, and the mu'áfí was a grant without such conditions.

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[1] Melvill's Ambála *S. R.*, § 61. The jágírdár's own land or home-farm is there called 'lána' (in the Sutlej districts). (Cf. vol. I. p. 232, *note*.)

[2] On the occasion of the disorders occasioned by the first Sikh war, in which some of the cis-Sutlej chiefs misbehaved.

The terms 'jágír' and 'mu'áfí' have now come to be used very much as synonyms. This is owing to the fact that service is not now required as the condition of the grant. A 'mu'áfí' is, moreover, usually a small grant; the jágír grant was commonly held by persons of some family and consideration. At the present day, however, one hears the pettiest revenue-free holdings called 'jágír,' and some large ones called 'mu'áfí.'

In concluding this notice, I have only once more to call attention to the districts near Delhi, where State grants called 'istimrárí-muqarrari' are found[2]. They might or might not be proprietary grants. If not, they only gave a right to receive the Government revenue, of which only the fixed sum specified in the grant had to be remitted to the treasury.

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[1] And that was why in the old days, as in Bengal, such grants were called 'Milk' or proprietary. For on the later theory that the ruler owned all the land, no one could have a *perfect* or absolute title. But if the State made a grant which in effect abolished the State's concern with the plot allotted, it became the 'Milk' or property of the grantee.

[2] In Karnál, for example, as already noted. See also Barkley's Panjáb edition of the *Directions*, § 133, p. 51.

SECTION X.—TENANTS.

§ 1. *Introductory Remarks.*

When we approach the study of the classes which are included under the term 'tenants,' we are prepared to find that some of them are really ancient proprietors who have long fallen out of rank. And we also expect to find many tenants who were always in that grade, only that they were hereditary, and possibly trace their connection with the land to the days of the first conquest or colonization.

In the former case the old rights have become so far lost or changed, that the once cultivating proprietor cannot now be recognized, as a matter of fact, even in the secondary grade of proprietary interest. Still the land is in possession, and the memory of past times is clung to. When that is the case, various attempts have to be made to secure by law, a fair measure of protection to men whose inferiority to the present 'landlord' is an accident of war or misfortune, and whose position is, at any rate, independent of contract, or of any action of the landlords, in the way of originating the tenancy.

In the Panjáb, 'tenants' of this reduced status may often be found; but they are not the chief or characteristic feature of the villages, as they are elsewhere. Where tenants have to be protected in this province, it is more commonly on the ground that, though confessedly of an inferior grade, they have substantially aided the proprietary class in founding the village and clearing the soil; or if not that, at least they have helped to bear the revenue, for the long years when it was so burdensome as to absorb all profit.

Under the Sikh rule, for instance, the principle was to exact a heavy revenue, and to ignore all distinctions of right in levying it; *every* occupant of land—whether called 'wáris' or 'málik' or 'háli' (ploughman), or tenant, or anything else—had equally to pay the share of produce and the 'zabti' rate on crops not divisible. And in the Delhi territory, both the Sikh assessments and our own early assessments (which copied them) were so heavy, that tenants were welcomed by the proprietors, both to aid in paying the revenue (and also in founding new villages, as in Sirsá). Such tenants paid no formal rent; but it must be remembered that the revenue burden was distributed by an all-round rate; and as the proprietors held the best lands, and the tenants paid equally for the less desirable lands, and also lightened the burden which would have been otherwise insupportable, the tenants, in fact, submitted to a sacrifice or conferred benefits which were the equivalent of a rent-payment. Such tenants were allowed—only too gladly—to extend their holding by taking up any waste they chose and cultivating it[1].

Claims to a tenant-right arose then in the Panjáb, not so frequently out of any former *status* of the tenantry, as out of the custom of the country, which accorded a privilege to men who had helped to found the village and had cleared the waste, and out of the claims which those tenants had, who in the Delhi, and indeed most other, districts, helped to bear 'the heat and burden of the day.'

In the absence of any law, tenants in the Delhi districts had been returned in the records of right prepared at Settlement as 'occupancy-tenants,' if they had held for ten or twelve years. The forms of record being those of the North-Western Provinces, they contained columns headed 'maurúsí' (hereditary or occupancy-tenant), also 'g̱hair-maurúsí' (tenant-at-will, non-hereditary), and these had to be filled up; so that tenants were put down in one or the other, according to the general practice which regarded the length of possession;—the period of twelve years having for a long time been the 'period of limitation,' which ripens a prescriptive title in India[2]. In other districts other methods were adopted, but more or less on the basis of long possession. When, however, Mr. Prinsep's Settlements began, he—arguing from the absence of any distinct law in force in the Panjáb, as to acquisition of occupancy by a twelve years' holding,—directed the revision of these entries (in the Amritsar and Lahore divisions) and struck out the names of a large number of tenants from the occupancy-columns, breaking their fall by granting leases for periods of years.

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[1] See the whole history of tenant right described in Ibbetson's Karnál *S. R.*, §§ 24 259. This applies equally to all the Delhi districts.

[2] At that time the Act X of 1859 was not passed: but the Districts were under the North-Western Provinces law when first settled, and even before 1859, the right of old resident tenants was acknowledged to some extent by record.

§ 2. *Tenant-right Controversy.*

On this subject (as usual) a somewhat fierce controversy arose. There certainly was not a *legal* authority for classifying tenants in the records, and regarding some as 'occupancy' and some not, whether on the basis of twelve years' possession or any other standard. As to the *equity* of the case, opinion was divided. On one side there were the descendants of families who had traditions of the conquest of the country by their ancestors, and the founding of the villages, and they naturally regarded cultivators of any caste different from their own, as being inferiors—whom in the days long past (so they asserted) they *could* have made pay whatever they chose, and *could* have turned out whenever they pleased. There were not wanting advocates for the complete restoration of these 'upper' classes, and for the accord to them of unfettered proprietary rights. The landlord advocates also made the most of the fact above stated, that the record of tenant-right really depended on an unsuitable form of tabular return. It was said that Panjáb tenants were wholly ignorant of this distinction, and that the 'amíns' who filled up the forms, conferred rights (in fact) by recording in the 'hereditary' columns at haphazard, all who appeared to have been several years in cultivating possession, and that without any real knowledge of the facts.

But this allegation too was only true to a very limited extent. In one or two districts of the Delhi neighbourhood, we may read in Settlement Reports that something of the kind was done[1], but even then it was not to any extent that worked practical injustice; and the defect of the argument was, that it laid far too little stress on the fact that many tenants so entered, represented those who had helped in establishing or extending the villages, or had themselves been among the founders. It forgot, too, now that the revenue was easily paid, or was daily becoming so (owing to peace, rise in prices, and improved markets and roads)—it forgot the days when the tenants had paid equally with the landlords, and had in fact by their efforts contributed not a little to the preservation of the villages. This consideration far outweighed any error that might have arisen from attention to the mere length of time for which a tenancy had lasted.

In every part of the Panjáb, no reasonable person can doubt that old tenants, who had taken part in clearing the soil and founding the villages, or the sons of men who had come to the rescue, and enabled the village to bear up against the revenue burden, had, most certainly in the public estimation, such a claim to consideration as must necessarily have been called an 'occupancy-right' (and endowed with a certain protection in the matter of rent-enhancement, without which an occupancy-right is valueless), the moment we attempted to fix landed rights in any legal form.

§ 3. *Inquiry directed.*

In 1863 the Financial Commissioner issued a circular of inquiry on the subject of tenants. Commissioners were to ascertain 'what was the position of the most favoured non-proprietary cultivators previous to annexation; to what extent their right was recognized; and on what conditions it was held; whether the proprietor could eject them . . . and if so, on what terms.' When replies were received, a Committee was assembled (in 1865) to consider the question of the proper position and privileges of tenants. About the same time (in 1866), Lord Lawrence, as Governor-General, had also directed inquiry on the subject, and the Local Government issued a further series of eight questions with a view to elicit all the facts.

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[1] A brief inquiry was made as to whether the tenant had held for twelve or nearly twelve years, and if so, he was called 'Maurúsí.'

§ 4. *Results elicited.*

It may safely be said that the following were the principal facts which came out :—

(1) That in the case of villages colonized and originally conquered by tribes from the North-Western frontier and otherwise, and in the case of villages founded by co-operative enterprise, there were no doubt proprietary families (speaking of the land as their *milkíyat*, *wirásat*, &c.) and considering themselves superior to all the other cultivators. That many of these would willingly, under British rule, have forgotten their past history and the obligations which arose out of it, and would have had their own supremacy re-established, no matter at what cost to other rights[1].

(2) That the effect of the Sikh rule had been to a large extent, but in different degrees in different districts, to obliterate or reduce the distinction between proprietor and cultivating tenant :—

'Time went on, land was abundant, population scant, the country became long subject to Pathán devastation, and afterwards to Sikh misrule; and the tendency became rather to abandon rights—symbols more of misery than of benefit—than to contend for their exact definition and enjoyment. The heritors of estates and the subsequent squatters—the "wáris" and the tenant—were placed on the same miserable level. It was not till Rájá Guláb Singh's governorship that a wiser system can be said to have been introduced[1]. . . The "wáris" (landlord) and the "asámi" (inferior cultivator) alike were on the same level. . . . There is in short no evidence to be found of one class having exercised proprietary right over other classes resident in the same village.'

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[1] Perhaps this is said somewhat too strongly. Landlords were not always unmindful of what was due to the tenant classes. It is worthy of note that in SIRSÁ where the landlords, at the approach of a new Settlement, began to eject tenants, the tenants brought suits but failed. The landlords did not pursue their legal victory, but in many cases, having received the tenants' submission, voluntarily, or in some cases for a price, *granted* occupancy-rights on something like 100,000 acres (see Speech of Colonel Sir W. Davies in the Legislative Council, 23rd June, 1886).

And of the frontier districts of Pesháwar and Hazára, Major James wrote:—

'At annexation we found the cultivators of old standing in actual possession of all proprietary rights, except those of sale and transfer, but acknowledging a vague liability to ejectment from a portion of their holdings on the appearance of the rightful owner. . . . Everything tended to make their position one of independence. On the one hand the proprietors were interested in retaining them on the estate; and on the other hand the Government *farmers* supported a class to which they mainly looked for profit. The ejectment (spoken of above) applied only to such lands as were occupied in the absence of the "daftarí[2]," and they were all in possession of shares assigned to them as "faqírs" (cultivators with occupancy-rights were so called), to the occupation of which they retained a hereditary right.'

'It must be remembered,' wrote Mr. (now Sir J. B.) Lyall, 'that ordinarily rent did not go to the proprietors in those days: the Government or the jágírdár took the real rent direct from the cultivators by grain division or crop-appraisement, and the proprietors only got "proprietary dues"—a "biswá" payment or a "sírmáni" (one *seer* in forty of the grain) if they got anything at all.'

(3) The proprietors were always anxious to keep tenants and not to lose them; so that the state of things did not exist which afterwards arose when land came to be in demand, and competition for it was possible.

(4) That at all times tenants who had *cleared* the land and really aided in colonizing a village had a position of

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[1] This refers to the country about Gujrát—the extract is from the Report of Hector Mackenzie, the first Settlement Officer. It is true of the Central Panjáb generally.

[2] The name given to a landlord among the Afghán tribes, as being written in the 'daftar' or record.

security, which was impossible not to describe as an occupancy right.

(5) That (*a*) people who, in the ups and downs of fortune, had once been proprietors and held the full right, but now had fallen to an inferior position, and (*b*) persons who had long been attached to the soil as revenue assignees, but whose revenue rights had come to an end or were resumed, should have a protected tenancy in that land.

§ 5. *The Law of* 1868.

The result of these inquiries was, that after a Committee had sat at Murree, and other discussions had been concluded (which it is now of no interest to detail), the Panjáb Tenant Law was enacted as Act XXVIII of 1868. This Act was summary, and in its language somewhat crude; it dealt briefly and comprehensively, in the style of local laws of twenty years ago, with the heads of subjects, and left many matters of detail unnoticed. On the whole, it may be said that the Act—as a first attempt at legislation on the subject—was more useful in this shape than it would have been if greater elaboration had been aimed at. It was inevitable, however, that it should need revision after the experience of several years.

It was found, moreover, that there were legal difficulties about some sections, and especially about the working of the enhancement clauses. Besides this, the first enacted definitions of occupancy-right certainly failed to provide for some deserving cases. The law recognized no period of twelve years, or any other rule depending on *mere lapse of time*, as giving rise to a right of occupancy;—this principle has always been admitted (as it is still maintained) in the Panjáb; consequently defects are not remedied by any general provision, and the specific definitions require to be more than usually accurate and sufficient in order to prevent unjust omission.

§ 6. *The Difficulties in Act XXVIII of* 1868.

In 1876 attention began to be called (by the Chief Court and the Financial Commissioner) to some of the legal difficulties in working the Act of 1868. But even more serious difficulties were later felt in two districts, which are mentioned in the *Statement of Objects and Reasons*, with which the new law was introduced into the Legislative Council in June, 1886[1].

The difficulty that arose in Hushyárpur was a double one. There are no less than 44,000 occupancy-tenant holdings in that rich district, where the population is dense, and most of them,—paying at revenue rates with or without some addition for 'málikána,'—were legally liable to a fair enhancement. There was the usual difficulty in enhancing rents fairly under section 11 of the old law, which directed a comparison with other tenants of '*the same class*.' It happened that in Hushyárpur there was a great demand for land, and it was not difficult to point to a number of plots of good land for which owners and occupants of other lands were willing to pay very high cash-rents to secure them for members of their family, who could not be provided for on the family holding. By law those high rents, if the land and conditions generally were similar, could be appealed to as standards for raising the rent[2].

But in *Sírsá* district (one of those formerly in the North-Western Provinces[3]) the villages were for the most part established under grants of local rulers, about eighty or ninety years ago. The founders and the grantees (or their representatives) were at the first Settlement in 1852, recognized as proprietors, and the tenants who helped them were specially recorded as hereditary or 'occupancy-tenants,' though they could no longer do as they pleased with the *waste*, which, on the usual principles of the North-Western Settlement, was handed over as a gift *to the proprietary body*[1]. When in 1872 a new Settlement became due, it was found that a considerable number of ordinary tenants had taken land, and had cleared some 265,000 additional acres of waste. But under the Panjáb law they were mere tenants-at-will, though, had the district remained in the North-Western Provinces, under Act X of 1859, many of them (who had held for twelve years) would have become occupancy-tenants. There was, therefore, at Settlement time a considerable excitement. The landlords issued notices of ejectment so as to secure the tenants not being *treated as* occupancy-tenants (as those in 1852 had been): and the tenants filed many suits to contest the ejectment[2].

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[1] This was the first Bill. It was fully discussed and redrafted (Bill No. II), July, 1887, again modified (Bill No. III) in September, 1887, and passed in its final shape on 23rd September, 1887. It came into force on 1st November, 1887; by Notification No. 726, *Panjáb Gazette* of 3rd November, Part I, p. 578.

[2] It might have been a question, indeed, whether such cases were 'of the *same* class'; but, however that might be, it certainly would have been a matter of legal argument and prolonged litigation in appeal. As it was, a number of the tenants were protected by entries in the Settlement Record, and as these would remain in force till the new Settlement Records were sanctioned and handed over to the district office, Government prevented the mischief of litigation by withholding sanction to the new Records till Act XVI of 1887 was passed.

[3] I may once more remind the reader that this district has since been abolished and divided, Fázilká has gone to Fírozpur and the rest to Hisár.

A report on the working of the Tenancy Law was then called for by the Government of India, and was furnished in October, 1881. It is unnecessary here to allude to the various Committees which sat, or to the successive drafts of Bills which were prepared. A measure was introduced into the Legislative Council in June, 1886, and finally (after careful consideration) a fourth revised Bill was passed into law as Act XVI of 1887, and received the assent of the Governor-General in Council on 23rd September, 1887.

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[1] It will be remembered that, originally, the waste was no-man's land, or belonged to the ruler. The grants for founding villages specified no particular area; and the custom was for the founders and the tenants alike, to cultivate what land they chose. When our Government had to make boundaries for the estates, and to allot a fair gift of waste to each, it was naturally to the proprietors (not the tenants) that the gift was made. The proprietors found out the value of this gift, and when a tenant wanted to take up some more waste (as he had hitherto been accustomed to do—of his own will and pleasure) he found that the landlord now interfered and would not let him have it without permission and a rent-payment.

[2] See the note to p. 707, ante.

§ 7. *Comparison of the Old and New Law.*

It has constantly to be borne in mind that the object of the present Act is only to remove legal difficulties, and to provide for acknowledged specific cases of hardship, and to complete the provisions needed on a variety of matters which the old and more roughly cast Act of 1868 had left undetermined. *But the principle of the tenant-right remains as it was before.* To show how the provision for the main classes of tenant-right has been adapted to meet the difficulties above explained, I shall place, side by side, the sections of the two Acts, the repealed one (Act XXVIII of 1868) and the present law (XVI of 1887).

§ 8. *Classes of Occupancy-Tenants.*

Section 5 describes the classes recognized:—

Existing Law of 1887.	Old Law of 1868.
5. (1) A tenant— (*a*) who at the commencement of this Act has for more than two generations in the male line of descent through a grand-father or grand-uncle, and for a period of not less than twenty years, been occupying land paying no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, or	5. Every tenant who— (1) has heretofore [i. e. before the date of the Act] paid no rent and rendered no service in respect of the land occupied by him, to the proprietor thereof for the time being beyond the amount of land-revenue and village cesses for the time being chargeable thereon, and whose father and grand-father, uncle and grand-uncle, occupying the same land have paid no rent and rendered no service in respect thereof to such proprietor beyond the amount aforesaid :
(*b*) who, having owned land, and having ceased to be land-owner thereof, otherwise than by forfeiture to the Government or than by any voluntary act, has since he ceased to be land-owner, continuously occupied the land, or	(2) or who has involuntarily parted or shall involuntarily part with proprietary rights in any land otherwise than by forfeiture to Government : and who has continuously occupied or shall continuously occupy such land or any part thereof from the time of such parting :
(*c*) who, in a village or estate in which he settled along with, or was settled by, the	(3) or who is, at the date of the passing of this Act [21st October, 1868] the represen-

Existing Law of 1887.	Old Law of 1868.
founder thereof as a cultivator therein, occupied land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or	tative of a person who settled as a cultivator in the village in which the land occupied by such tenant was situate along with the founders of the village :
(*d*) who being jágírdár of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or having been such jágírdár, occupied the land while he was jágírdár and has continuously occupied it for not less than twenty-years,—	(4) or who is or has been jágírdár of the village or any part of the village in which the land occupied by him as tenant is situate, and who has continuously occupied such land for not less than twenty years :
has a right of occupancy in the land so occupied, unless in the case of a tenant belonging to the class specified in clause (*c*) the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder.	shall be deemed to have a right of occupancy in the land so occupied.
(2) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land-revenue thereof, and the rates and cesses for the time being chargeable therein, it may be presumed that he has fulfilled the conditions of clause (*a*) of sub-section (1).	

It will be observed that these clauses provide for all persons who 'naturally,' i.e. according to the real custom and facts of their holding, ought to be called in terms of law 'occupancy-tenants [1].'

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[1] In clause (*a*) the wording is a modification or compromise regarding the question which arose whether the word 'heretofore' in the old clause should be retained or not. The legal meaning is that which (as affirmed judicially) I have inserted within square brackets, but it was commonly understood to mean 'heretofore' with reference to the date of suit, or inquiry at Settlement, as the case might be; and so persons got rights who had held without paying rent or service for three generations, but including the immediate past, and not wholly in the time *before* the Act (i. e. before 1868) as the law requires. There were arguments for altering the law to legalize the common view; but on the whole the present rule was preferred. But it will be observed that the difficulty of proving what happened so long ago as three generations *before the present Act* commenced (1887), is not so

The explanation which attaches to clause (*c*) is intended to meet cases of persons who, though their tenancy might date from the founding of the village, yet bore no part in the labour and expense of clearing, but were merely admitted on land already cleared and prepared for cultivation: such persons would not, by custom, have had the same privileges as those who were really co-founders.

In clause (*d*) 'jágírdár' includes a 'mu'áfídár' or any other grantee of revenue (see definition clause, No. 15) but not a village servant (often remunerated by a small rent and revenue-free holding). It often happened that these grantees of plots were formerly full proprietors or members of conquering tribes, who were conciliated or consoled for the loss of possession by such jágírs; and if, as such, they had obtained cultivating possession—though they could not be called owners of the land, or even 'sub-proprietors,' it was at least fair that a right of occupancy should be secured to them.

§ 9. *Additional Cases of Right.*

Act XVI of 1887, sec. 6.

Besides these 'natural' classes of tenants, the law recognizes—necessarily—two others:—

(i) tenants recorded in a Settlement sanctioned before the old Act was passed (October 21st, 1868); those entries had all been revised and scrutinized, and in some cases had been repeated in later records; clearly it would never do to reopen long settled questions of this kind;

Sec. 8.

(ii) is another case of rarer application: it may be that a man can prove that, though neither under Section 5 nor entered in any Settlement Record, still he has, on other grounds, such a strong claim to consideration, that a Court, in common fairness, would allow his right. I have seen but very few such cases, and in these a grant or promise

great as that of going back three generations *before* 1868; and the *presumption* raised by sub-section (2) materially facilitates proof.

by the landowner or overlord not to remove the tenant, has been proved. Or it might be that a tenant could show that persons situated exactly as he was, had been allowed rights under section 6, or that some special local custom was proved[1].

Act XVI of 1887, sec. 11.

Section 11 of the Act merely saves all persons who had rights under the law of 1868, from being supposed to lose them owing to any condition or amendment inserted in the Act of 1887.

Sec. 10.

All other tenants are tenants-at-will; and no mere length of possession will give a right.

§ 10. *Varieties of Method in Rent-paying.*

Before we can understand what protection is afforded by law to tenants of both classes (occupancy and ordinary) with respect to their *rents* and to *ejectment*, it must be explained that cash-rents at a competition rate per acre of land, and varying according to the value or class of land, are still only occasional (see table at the end of this section). The reader will remember that in the Panjáb only about 49 per cent. of the cultivated land is held by tenants as against 74 per cent. in the North-Western Provinces. A considerable number of occupancy-tenants pay no rent at all—only the revenue and cesses[2]. Others pay the revenue plus a small 'proprietary' due (as explained in an extract p. 708); others again pay in the same way as ordinary tenants, only at more or less favourable rates. In fact, we have as many as six classes which may be distinguished in respect of variety in the form of payment:—

(i) paying at revenue rates without addition;

(ii) paying at revenue rates with some addition by way of 'munáfa',' or 'málikána,' or 'biswa' (proprietary due or profit) to the landlord;

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[1] See Revenue Judgments No. 4 of 1875 and No. 4 of 1876 (Panjáb Record).

See also Civil Case No. 112 of 1880 for a case of tenant by grant, and see Revenue Judgment No. 12 of 1880 for a case depending on peculiar *circumstances*.

Also No. 18 (Revenue) of 1880 where a *village custom*, that a person (or his father and himself) having held for 50 years and paying only revenue and cesses, was entitled under section 8. Length of possession is here an *incident* of the claim but it is not the *sole* ground.

[2] But see some remarks on this at p. 704, ante.

(iii) paying cash-rents by a lump-sum on the holding ('lágán' or 'chukotá');

(iv) paying cash-rents by rates per *bíghá*, or on some other measure of area (shara'-naqdí');

(v) paying grain-rents (batái or bháoli)—i.e. a share of the actual grain-heap. There may be a rent payable in kind, but fixed in gross, i.e. consisting of a settled quantity of grain of different kinds (or one kind) irrespective of what the actual yield is;

(vi) paying grain-rents by (kan or kankút) an appraisement of the standing crop, and delivery of a quantity of grain according to the estimate of the landlord's share. Whenever grain-rents are paid, it is usual to take a certain sum in cash on account of particular crops, known as 'zabtí[1].'

But it is quite possible that any tenant may pay partly in one method and partly in another. Any one of these forms[2], too, may be found in the case either of an occupancy-tenant, or a tenant-at-will; no one is *absolutely* characteristic of either class.

§ 11. *Privileges of Occupancy-Tenants—Enhancement.*

Act XVI of 1887, sec. 20.

Occupancy-tenants' rents not paid in cash are only enhanceable when part of the land becomes irrigated, by a change from the grain-share customary for *dry* land, into the share customary for irrigated or river-moistened land, as the case may be.

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[1] Ẓabṭí, from Ẓabt (A) = sequestrated, reserved: applied to particular (and superior) crops like tobacco, melons, pepper, &c., &c., which, not being easily divisible in kind, and also well able to pay, are always represented, on the grain division being adjusted, by a cash equivalent.

[2] A common form of tenancy is where the proprietor has *mortgaged*, and agrees to work the land as tenant under the mortgagee, paying a cash rent or a certain share of the produce, or both.

Sec. 22. Enhancement of cash-rents (under the above circumstances) may be had under section 22.

As regards enhancement in other cases, the classes of tenant specified in sections 5 and 6 and 8 respectively, form so many degrees of privilege; the first is the most favoured: he can only be made to pay two annas málikána[1] for every rupee of revenue, *plus* rates and cesses, that he pays. The other classes of section 5 can be made to pay six annas per rupee; and those of sections six and eight (unless in the case of a special contract) twelve annas per rupee[2].

Sec. 23. The tenant has a *per contra* right of claiming a *reduction*, on the ground that 'the productive powers of his tenancy have been decreased by a cause beyond his control.'

§ 12. *Alteration of Rent on alteration of Area.*

Sec. 28. It will be observed that *enhancement* on the ground of *increase of area* (which is not really enhancement at all) is, in the Act, properly kept separate from the foregoing provisions; and there is also the corresponding right to an *abatement* on *decrease* of area. The Act, therefore, has a special heading for 'alteration of rent on alteration of area.'

§ 13. *General Condition that Rents must be fair, and last for a term of years.*

Sec. 25. It is important to remember that the law adds a 'rider' to *all* enhancement and abatement rules. The provisions fix limits, but the Court is always to regard (not only the legal limits, but also) what is 'fair and equitable' in the particular case.

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[1] 'Málikána,' it will be recollected, is, in Bengal and elsewhere, usually employed to mean an allowance to an *ex*-proprietor by way of *solatium* for a lost right. In the Panjáb it is used more commonly to mean what an inferior, or a tenant, pays by way of recognizing a superior, or landlord's right.

[2] This method of calculating rent with reference to the revenue standard, is familiar in the Panjáb and has been substituted for section 11 of the old Act, which attempted to compare the tenant in question with other tenants (in the same or adjoining villages) 'of the same class' (having or not having an occupancy as the case might be) 'and holding land of a similar description and with similar advantages.' It often happened that such a comparison was impracticable; or if practicable, that, owing to special demand for lands or other local causes, there would be rents so high that comparison would be unfair.

Sec. 24. There are also (as usual) limits to the repetition of the enhancement process; so that when a rent has been enhanced, it cannot again be raised for five years in some cases, and ten in others.

§ 14. *Privileges of Occupancy-Tenants—Ejectment.*

I may pass over the provisions regarding relinquishment (express) and abandonment of holding (without notice) and speak of *ejectment*. The occupancy-tenant can only be ejected on the ground (1) that he has used the land in a manner incompatible with agricultural use, or (2) that if he has to pay rent in kind, he has failed to cultivate as usual[1], or (3) that he has an unsatisfied decree for arrears of rent against him. Sec. 39.

The ejectment of an occupancy-tenant must be *by decree* (i.e. a judicial affirmation of the existence of the cause specified by law) except in the case of an unsatisfied decree for arrears, in which an *application* may be made to the Revenue Officer for *summary ejectment*. This latter proceeding enables the Revenue Officer still to give the defaulting tenant a chance, by allowing fifteen days' grace for him to pay up in. But the tenant does not forfeit his right to compensation if any is due under the Act. Sec. 44.

Any decree, or order on an application, for ejectment, is ordinarily carried out only between 1st May and 15th June, i.e. after one harvest and before operations for the next crop begin; unless, indeed, for special reasons, the decree or order expressly directs otherwise.

Sec. 49. The Act has provided some new and useful directions regarding a case which often arises, viz. that ejectment—however justifiable—has to take place when some part of the crop is still immature or still ungathered, or where a portion of the land has been prepared for the next sowing[1]. I have given some examples on the subject extracted from *Financial Commissioner's Consol. Circular* (Part II, No. 17), and refer the reader to the passage in the Chapter on 'Revenue Business' (section on *Duties under the Tenancy Act*).

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[1] And even then the Court may decree damages or compensation and not ejectment (see section 48).

§ 15. *Other Privileges of Occupancy-Tenants—Right of Alienation.*

The tenant-right under any clause of section 5, is *transferable*, subject to certain conditions for which the Act must be read in detail. Speaking generally, the requirement is, that notice be served through the Revenue Office on the landlord, who is allowed a month within which to exercise a right of pre-emption, whereby he buys the tenant-right out and out. Any co-sharer in a joint-proprietary body may exercise this right. Sec. 53.

The landlord has a certain right in case the occupancy-title is *sold in execution of a decree* (i.e. involuntarily). Sec. 55.

A minor right of occupancy, i.e. not under section 5, is not either attachable or saleable in execution of decree, nor is it transferable without the *previous* consent of the landlord. Sec. 56.

All irregular transfers are *voidable* at the option of the landlord. Sec. 60.

An occupancy-tenant may *sublet* (subject to any provision of the Act and any contract in writing between him and his landlord) for a term not exceeding seven years. Sec. 58.

§ 16. *Succession to Tenancies.*

The order of devolution of an occupancy-right by inheritance is regulated by law. It will be observed that the widow's right, long acknowledged by custom, is now Sec. 59.

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[1] We speak of the spring harvest and the autumn harvest; but in fact, what with varieties in soil, differences in district, climate, and many other circumstances, no dates are positive and universal: there will always be a crop here and there not ripe, and uncut, or part of the crop will still be standing while the tenant has been ploughing up and ridging other fields for a next sowing: this fact had hitherto been ignored.

legalized expressly; but her tenure is for life and without power of transfer; and it is lost by re-marriage. No other female inherits. All this is matter of universal custom. *Collateral* succession is limited to the cases where the collateral and the landholder are descended from a common ancestor *who had occupied the land*.

§ 17. *Other Rights.*

A landlord cannot make an improvement (as defined in the Act) on an occupancy-holding (except of course by Sec. 61. consent) without the permission of the Collector (and see remarks on the point under the head of 'Revenue Business'). Having made the improvement, there may be a special Sec. 62. enhancement of rent.

The occupancy-tenant can always make an improvement himself on his tenancy. He is always entitled to compen- Sec. 68. sation for it, if ejected.

§ 18. *Protection to Ordinary Tenants.*

The *principle* of the law is that ordinary tenancies, as regards the rent and enhancement, are generally subject to contract between the parties. But ordinary tenants are protected under the Act in various ways; and the case of the Sirsá tenants before mentioned, was thus sufficiently provided for, without creating any new or special kind of occupancy-right, under the general provisions as amended.

I may refer first to the provisions about grain-paying Secs. 12(2) -14. tenants; on the other hand, if the tenant is dishonest and tries to remove grain, the landlord is protected by the legal pre- Sec. 16. sumption that the grain-heap ought to consist of the *maximum* produce of a full harvest[1].

It is also a solid convenience to a tenant holding under Sec. 15. several co-sharing proprietors that they cannot come down on him severally for fractional shares of rent. He need only pay his whole rent to one man.

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[1] On the well-known principle of 'omnia presumuntur contra spoliatorem.'

Then the provision about alteration of rent following on alteration of area, already alluded to, applies to *all* tenants, Sec. 28. and so the rules about remission of rent for calamities. Secs. 29, 30.

A tenant of any kind can only be ejected after issue of notice, at the end of the 'agricultural year': and this notice is made subject to certain conditions. Sec. 45. Section 49 (already alluded to) equally applies to ordinary tenants: and Sec. 49. *improvements*, though they cannot be made without the consent of the landlord, give rise to a claim for compensation on ejection.

§ 19. *Compensation for Disturbance.*

But the special provision which will protect such cases Sec. 69. as the Delhi Districts tenants (where they have not got occupancy-rights) is that enacted in section 69. A tenant who, though not entitled to occupancy, was yet a 'bútámár' or clearer of the waste, is not only entitled to compensation for improvements, but also to a special compensation for disturbance, in a sum—to be fixed by a Revenue Officer—not exceeding five years' rent of the land.

§ 20. *Statistics of Tenancy.*

The following figures (for the year ending with the spring harvest of 1888) will serve to give an idea of the proportion of lands cultivated by tenants to those cultivated by proprietors, and of the number of tenants paying rent in kind or in cash, and of tenants paying only the revenue-rate and nothing more.

		Number of holdings.	Area (acres).
Total area cultivated	. . . .	6,157,783	27,254,601
Ditto	by owners . .	2,934,312	16,545,504
Ditto	by tenants *free of rent*	169,700	176,903
Ditto	by tenants *paying rent*	3,053,771	10,532,194

		WITH OCCUPANCY-RIGHTS.		WITHOUT OCCUPANCY-RIGHTS.	
		Number of holdings.	Area.	Number of holdings.	Area.
By tenants *paying* rent.	By tenants paying at revenue-rates with or without an additional fee or '*málikána*' .	396,539	1,399,165	251,729	602,355
	Paying other *cash*-rents	112,110	544,226	758,488	2,288,824
	Paying rent in *kind* (with or without some addition in cash) .	152,805	874,727	1,382,100	4,822,897

			Irrigated (acres).	Unirrigated (acres).
Detail of rents and area on which paid.	Rents in kind.	(1) Zabti rents[1]	12,970	38,461
		(2) $\frac{1}{2}$ produce or more . . .	678,448	1,308,969
		(3) $\frac{2}{5}$ to $\frac{1}{2}$	185,608	384,653
		(4) $\frac{1}{3}$ to $\frac{2}{5}$	557,590	957,827
		(5) $\frac{1}{4}$ or less	575,362	875,975
		(6) By fixed amount of produce .	77,229	37,191
		(7) Total area under rents in kind	2,087,217	3,603,076
	Cash rents.	(8) Total area paying cash-rent .	919,805	3,922,096
		(9) Total cash-rent . . .	8,447,460	

SECTION XI.—THE SPECIAL LAW AND LOCAL FEATURES OF HAZÁRA.

§ 1. *The Law Applicable.*

For the Hazára district, which is a scheduled district, a special set of Settlement Rules were passed under the Panjáb Frontier Regulation, issued under the 33 Vic. cap. III[2]. The Tenancy Act (XVI of 1887) is also subject to certain modifications as enacted in Regulation XIII of 1887.

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[1] See note at p. 716, ante.

[2] See *Panjáb Code* (Legislative Department) second ed., 1888, Part III. *Regulation I of* 1872 and *Regulation II of* 1874. This law is still in force, and the Land-Revenue Act XVII. of 1887 applies *subject to their special provisions.*

§ 2. *Record-of-Rights.*

As regards rights, a statement was made out for every village, showing the whole of the occupants and other persons interested in the land. This was made public and discussed, and then the Settlement Officer declared who of all these he considered 'proprietors' and who 'tenants.' A person aggrieved might petition the Settlement Officer and get his case heard as a regular judicial suit.

A special provision was made for dealing with cases where there was a double *proprietary* tenure, which resulted from the confusion introduced by the Sikh rule.

I have alluded, in the section on tenures, to a custom of periodical redistribution of shares or holdings of land. In Hazára this custom is called, as usual, 'wesh.' If this custom was ancient (i.e. before the Sikh rule), and a sharer had lost land by its being taken for public purposes, or by diluvion, the Settlement Officer might award him (under certain conditions) a plot out of the 'shámilát' or common land of the village; but if he had already been paid compensation by the State for the land, he must refund the money to the common fund before getting the land.

Rights in village sites were also recorded, but the record is only to be *primâ facie* evidence as far as these entries are concerned.

Pre-emption customs were recorded and followed. So also inheritance customs, either of tribes or villages, were defined, subject to certain rights of appeal.

Succession in the case of jágírs or revenue-assignments was also defined under sanction of the Government through the chief revenue authority (the Financial Commissioner).

Special rules appear also for the appointment of village headmen or lambardárs. So also for patwárís, one of whom ordinarily is found for each village.

The instalments of revenue are apportioned one to each harvest, the dates of payment being fixed by the Settlement Officer, so as to fall about one month after the principal crops are harvested.

The cesses levied in addition to the land-revenue are special: one per cent. is for schools (the location of which was determined at the time), and a small rent and revenue-free plot is to be allowed to the schoolmaster. One per cent. is also to be levied for the relief of disease among the population of Hazára.

§ 3. *Object of the Record: exceptional finality.*

Unless (as in the case of the record of rights in the village site, already mentioned) it is otherwise expressly provided, all records of rights, customs, liabilities, and all rules drawn up by the Settlement Officer, are, when submitted to the Commissioner and confirmed by the Financial Commissioner, to be considered as 'a final settlement of all matters treated of.' These cannot even be revised at a future Settlement, unless they relate to office-bearers, and their duties, to the amount and method of paying the Government revenue, to cesses, or to proprietary rents of any description.

No suit will lie to enforce a right or usage contrary to the Settlement record, except in so far that a suit may be brought to show that the record of a holding does not represent the actual award at Settlement (in which case the record may be amended).

This, it will be observed, is different from the law regarding ordinary records of rights. There is, however, a general exception in favour of persons who can prove (within three years of the date of final report) that they were not in the Panjáb during Settlement, and did not know what was going on.

In short, the object was, in Hazára, to give no ground for continuing those long disputes which the ancient incursions of tribes, and local feuds, and the changes and dispossessions of the Sikh rule, had given rise to.

On the establishment of peace, long ousted landholders sought to get back their rights, mortgagors desired to be replaced, and so forth. All these matters were once for all gone into on the spot by a particularly competent officer[1] with ample opportunities for appeal.

Everything that could concern anybody, landlord or tenant, was carefully inquired into and recorded then and there. After a cautious examination and approval of the record, it was made final, and all questions settled and hopes of change rendered futile. Such a course was essential in a district inhabited chiefly by primitive and quarrelsome mountaineers.

In other respects, i.e. as regards recovery of arrears, mutation of names in the record, appointment of officials, &c., the Land-Revenue Act is in force.

§ 4. *Tenancy.*

The ordinary Tenancy Law is also slightly modified in its application to Hazára by a special Regulation[2].

Occupancy-rights are given to persons who *naturally* have such rights; but the terms required to be specially adapted to Hazára where not only had the Sikh rulers dealt direct with the *tenants*, but we also had given them protection for twenty years after annexation. The terms of section 5 are therefore modified with reference to the original date of the Hazára Regulation, and also contain special clauses protecting tenants who had held from the date of the summary Settlement in 1847[3].

Section 11 is modified to meet the additional clauses, and section 22 (the enhancement section) in a corresponding manner.

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[1] Colonel E. G. Wace. It is with unfeigned regret that I record the loss the Province sustained by the death of this eminent Revenue Officer (at the time first Financial Commissioner) in the spring of 1889, when I was preparing to revise these pages.

[2] *Regulation XIII of* 1887 repeals the earlier *Regulations III of* 1873 and *III of* 1874. The Regulation extends Act XVI of 1887 to Hazára, subject to certain changes in sec. 5, sec. 10, sec. 11, sec. 22, and to alter (in sec. 24) a reference to the Act of 1868, to one to the Hazára Tenancy Regulation, 1873. That is the whole change. The Legislative Department Edition of the Tenancy Act gives these changes conveniently in foot-notes to the text of the Act.

[3] See a letter from the Government of the Panjáb to the Government of India, No. 1156, dated 10th September, 1872.

§ 5. *Forest Lands.*

The whole question of waste and forest was settled, and a special Regulation under the 33 Vic., cap. 3, No. II of 1879, was passed (superseding some earlier ones) for the management of the forests. There are certain tracts reserved as permanent forests and subject to very much the same prohibitions and protections as the general Forest Law of India contains. Other forest (village forest) is under protective regulation, but not managed directly by departmental officers. Waste land not dealt with either as reserved or village forest, may be brought under cultivation without restriction. As the country is mostly mountainous, it is prescribed that forest or turfed land *must* be kept up in all places where there is danger from landslips, falling-stones, ravines, torrents, and the like. The principle has been that, practically, the Government so far owns the waste, that at least it has a right to take up any part of it for forest purposes, but it gives up the rest freely. Moreover, as the people were in former days allowed a very extensive user, and certainly were never prevented from treating the forest *as if* it were their own, they have been allowed a certain share in the value of trees felled in reserved forest estates, partly to compensate them for exclusion from the tract. Government reciprocally has a right to a part of the value of trees cut in non-reserved tracts, because the Government always asserted a right to the trees, if not to the forest itself. The principle adopted was, not to raise any theory of ownership, which it would have been impossible to settle, but to inquire practically what the villages had enjoyed, and provide for that or for its fair equivalent. The rest then remained at the disposal of the State for the maintenance of public forests.

CHAPTER III.

THE REVENUE OFFICIALS—THEIR BUSINESS AND PROCEDURE.

SECTION I.—REVENUE OFFICERS.

§ 1. *The Financial Commissioners.*

AT the head of the Revenue Administration, and directly under the Local Government, are the two FINANCIAL COMMISSIONERS[1].

They divide the work between themselves in ordinary matters and give a joint decision in certain others, on which subject Rules were published in *Notification*, No. 132, dated 1st March, 1888[2].

Act XVII of 1887, sec. 7.

§ 2. *Director of Land-Records and Agriculture.*

In the Panjáb, as elsewhere, a Director of Land-Records and Agriculture exists (see vol. i. chap. V. p. 354). The office, in this province, has developed out of the 'Settlement Commissioner,' an office now no longer existing. The Director aids the Divisional Commissioners in supervising Settlements, by inspecting the record, survey, and statistical work. He is constantly engaged in seeing to the efficiency of the patwárí and kánúngo staff, and to the accuracy of their records. He also does whatever is possible, in the present state of the province, in respect of agricultural improvement. His office is not mentioned in the Act, as he requires no formal Revenue powers: but the *Financial Commissioners' Consol. Circular* (Revenue Officers, No. 25) gives the requisite details as to his duty and authority.

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[1] Called 'First' and 'Second.' They have a Senior and a Junior Secretary.

[2] Except in certain cases in which a joint opinion is required, one Financial Commissioner disposes of business connected with :—

A. Land-Revenue Act; Tenancy Act; Canal Act; Forests and Waste Lands; Leases of Waste Land, &c.; Surveys; and Famine.

And the other with :—

B. Income Tax; Stamps; Salt and Excise; Trade; Court of Wards; Pensions and Jágirs; Government suits; Land Improvement and Agricultural Loans (Act XIX of 1883 and XII of 1884); Land Acquisition Act.

§ 3. *The Commissioner.*

There are six '*divisions*,' formed of groups of *districts*, and over each is a Commissioner. Subject to the general superintendence and control of the Financial Commissioner, the Commissioner controls all other Revenue Officers in the division[1].

§ 4. *The Deputy Commissioner (Collector).*

Each of the thirty-one districts has a District Officer in charge; his ordinary official or executive title, as usual in provinces of the so-called non-Regulation class, is 'Deputy Commissioner.' In the Land-Revenue Act he is called 'Collector[2].'

§ 5. *Subordinate Officers.*

Act XVII of 1887, sec. 6.

The Land-Revenue Act contemplates Assistant Collectors in two grades. The ordinary official title of the Officers who assist the District Officer is 'Assistant Commissioner,' for the same reason as led to the title Deputy Commissioner. A certain number of 'Uncovenanted' Officers (Native and European) are appointed to a similar rank, with the designation of 'Extra Assistant Commissioner.' According to experience and standing, these Assistant and Extra Assistant Commissioners (and also Tahsíldárs) may be, and are, appointed Assistant Collectors of the first grade: while junior officers and Náib-Tahsíldárs are invested with powers of second-grade Assistant Collector.

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[1] See the Chapter on Officials in Bengal (vol. i. Book II. chap. v. p. 666), where the details regarding a Commissioner's duties are given and are applicable equally to all provinces.

[2] The title Deputy Commissioner is retained in provinces where the district officer may be an uncovenanted or a military officer. In the Panjáb, the district officer is Collector and also District Magistrate; he has no Civil court functions, except in a very few districts where he is also 'District Judge,' for the purpose of superintendence, though in fact he does little or no civil work.

There is no occasion to enlarge on the subject of the Collector's duties and powers. They are provided by law, and are in practice very much what they are in other provinces. As usual, the Act reserves a number of subjects to the jurisdiction of the Revenue Officers alone, and these Sec. 158. cannot form the subject of a suit in a civil court.

The functions assigned to a 'Revenue Officer' by the Act, may be discharged by whatever class of officers the Local Government determines; unless (as in some sections) the Act itself prescribes some particular grade or class of Revenue Officer as empowered to act under it. The *Gazette* Notification, No. 81, of 1st March 1888, divides the functions under the Act into two groups; and provides that powers under group A are to be exercised only by Collectors or officers above that grade. Those in group B may be exercised by Assistants of the first grade or any higher officer.

Officers below the rank of first-grade Assistant can act in cases where neither the Act nor the Rules, nor the Notification, specify any higher grade.

Group A consists of powers to appoint, punish, or dismiss village and pargana officers; to carry out assessments; to certify arrears of land-revenue; and to prepare the list of village-cesses (see p. 605, ante). But by the Act, an Assistant Sec. 27. or Extra Assistant Commissioner (or indeed any other person) can be vested with the powers of a Collector, either generally or in respect of a certain class of cases; and in that case he can dispose of matters in group A, in general subordination to the Collector.

Group B refers to defining boundaries and erecting Secs. 101, 103, 150. marks, &c., and to authorizing distraint and sale of crops Sec. 70. and moveable property; and to taking action in case of a Sec. 36 (4). dispute as to possession of property.

A second-grade Assistant cannot *pass orders* on any of these matters, but he can (e.g.) *inquire into* the correctness Sec. 34. of the entries in a Register of Mutations, as neither the Act, nor the rules, nor the notification, require any particular grade of Revenue Officer to perform the duty.

There is a very complete account of the duties of the Collector and his staff in the volume of *Consol. Circulars* (Revenue Officers, No. 18 and 23) which should be consulted. The Circ. No. 19 deals with Settlement Officers, and No. 20 with Assistant Commissioners; No. 21 with Extra Assistant Commissioners (who are locally appointed).

§ 6. *Tahsíl Officers.*

It will be observed that in the Panjáb Act, the Tahsíldár, who is the officer in charge of a local treasury, and the Revenue officer of the local subdivision of a district called a 'Tahsíl,' is not reckoned, *as such*, among Revenue officers; nor is a Deputy Tahsíldár (called Náib-Tahsíldár): but, as a matter of practice, both officers are, according to their standing and experience, and to their having passed, or not yet passed, the departmental examination, always vested Sec. 6 (3). with powers either of a second-grade or a first-grade Assistant Collector.

The 'tahsíl,' as already remarked, is a subdivision of a district, which is of primary importance in the Panjáb; the Mughal 'pargana' is still remembered in some parts, and is found convenient to refer to locally in reports, &c., but ordinarily the 'parganas' were confused under the Sikh 'taluqa' or 'iláqa'; and moreover they never had much, if any, value in the northern districts, where we have the 'iláqas' of tribes. Consequently, the *tahsíl* is a more convenient administrative unit; larger than the pargana, and so disposed that ordinarily about four of them comprise a district[1].

At the conveniently selected head-quarter town, is the tahsíl treasury and office; and here local payments are made by the village headmen, and local revenue petitions are presented. Some of them are disposed of, and others reported on for the orders of the Collector. The Tahsíldár, as his name implies, is the officer in charge of such a tahsíl, and, as he has local control, he is (necessarily) vested with powers of a (Subordinate) Magistrate, so that, though he is not expected to try magisterial cases in any number, he may have the *prestige* and the authority of a Magistrate to act in case of need. A good Tahsíldár is well versed in Revenue details, and has an intimate knowledge of the people in his tahsíl as well as of the condition of the estates in it, and of the peculiarities of climate and agricultural conditions under which land-management is carried on. He is constantly in camp, and is therefore assisted by a *Náib* (or Deputy) who has similar, but lesser powers, and so arranges his movements that he is at the tahsíl head-quarters, when the Tahsíldár is away.

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[1] Ráwalpindí happens to have seven tahsils (of which two are smaller hill tracts). Ambála has six, and Fírozpur, five.

The rules under the Act give details as to the selection, appointment, dismissal, and control of Tahsíldárs and Deputy Tahsíldárs, and the qualifications required of them; and further details are found in the *Consol. Circular* (Revenue Officers), No. 22.

Rules, Part II, Chap. I.

The number of officers of this class for the whole province is sanctioned by Government; but the appointment, posting, and control of the staff rests with the Financial Commissioner[1]. The rules also give directions as to the Tahsíldár's inspections and camp movements; his especial attention being directed to checking the record of changes in proprietary and occupancy holdings, and to the harvest statistics; while his camp tours also afford special opportunities for dealing *on the spot* with partition cases, and with matters connected with lambardárs' appointments, and cases of lapse of revenue assignment.

Act XVII of 1887, sec. 9.
Rules, Part II, Chap. XIII.

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[1] Superintendents and Deputy Superintendents for Settlement work are now no longer a separate class; they are merely tahsildárs experienced in Settlement work, and available to reinforce the tahsil office in a district where Settlement work is in progress.

§ 7. *Power of Appeal, Review, and Revision.*

The Act contains the usual provisions about appeal from the orders of one grade of officer to the next above him; and about officers reviewing their own orders (on cause shown); and about the power which the chief controlling authority has in all cases (and the Commissioner in the case of all officers below him) of calling for the record of any case, of his own motion, or at request of any party interested, and doing justice by passing such order as he may think fit. The Act itself may be referred to without Secs. 13-16. difficulty, on the subject of appeal and review, and of the 'revision-jurisdiction,' as it is called.

§ 8. *Procedure in Revenue Cases.*

Sec. 17. The procedure of Revenue officers is to some extent specially provided for. The principal points taken up are those where the civil court procedure is not altogether suitable, viz. the appearance of parties by agent; the power of summoning persons before the Revenue Officer, and the method of making any proclamation regarding land[1]. Sec. 17. Under this section supplemental rules of procedure have been made[2]. The object of the rules is to secure the least technical procedure possible, to insure simplicity in the record of proceedings, and in drawing up orders and giving reasons therefor. Nothing in the Act or rules calls for any special comment in this place.

SECTION II.—VILLAGE OFFICERS AND THEIR SUPERVISORS.

§ 1. *Village Officers in the Act.*

I might have mentioned as next in order below Tahsíldárs, the Kánúngo; but his functions will be better understood after we have considered the village officers' duty.

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[1] See *Notification*, No. 75, 1st March, 1888, p. 51 of the *Gazette Extraordinary*.

[2] The advisability of excluding legal practitioners is obvious, in simple matters where nothing is required but plain statements of fact, and there is no opportunity for any difficult matter of law in which assistance is called for. To encourage pleaders in such cases would merely be to foment disputes and impoverish the people.

The term 'village officer' is applied in the Land-Revenue Act to '*patwárís*,' 'headmen,' and 'chief headmen.' In the village system of old days, the artizans and watchmen, &c., were practically included along with village officers, as receiving their share in the grain or holding patches of land in virtue of their office or employment, or as a reward for service; but there is no occasion in this book to notice them, as they have no share in the Revenue work. The village watchmen are to some extent organized and provided for by rules under the Laws Act: but they are not Revenue officials in any sense. The whole subject of 'Village Agency and Records' forms Part III of the volume of *Consolidated Circulars*, and Nos. 26–28 should be referred to.

§ 2. *The Patwárí.*

This official is of the utmost importance to the system. On his being duly trained and being competent carefully to prepare the village records and statistics, really depends (in the last resort) the hope of diminishing the labour and trouble to the people which the recurrence of Settlement proceedings occasions. Of late years the position and pay of the patwárí have been greatly improved. Patwárí schools have been organized; the old ignorant Hindí-writing *patwári* has been got rid off; and decently paid, well-taught, Urdu-writing men are everywhere to be found, who can survey, map neatly and accurately, and prepare their own records; whereas formerly they stood by, while a 'munsarim' wrote the returns and forms for them.

The little book of *Rules for Patwárís*, prepared in 1885, is still in use, giving details regarding duty, and ample instructions as to the preparation of the land records and statistical returns required, and as to the method of making the harvest and other local inspections. There is also an excellent Mensuration and Survey Manual prepared expressly with a view to patwárí instruction. The rules regarding *patwárís* are made under the authority of section 28 of the Land-Revenue Act. Rules, Part I, Chap. I to VIII.

§ 3. *Patwáris' Circles, Pay, &c.*

A patwárí is not appointed to each village, but to a *circle*, as determined by the Commissioner; and there may, for special reasons, be an assistant patwárí in large and difficult circles. The pátwarí is a 'public servant,' within the meaning of the Indian Penal Code, though, as before mentioned, he has no powers as a 'Revenue Officer' under the Land-Revenue Act. A portion of the village cess[1] is formed into a fund for the pay of patwárís under the orders of the Financial Commissioners, and a schedule of pay is also sanctioned; ordinarily, the pay is not more than R. 20, or less than R. 10, 'exclusive of income from mutation fees and local rate.' Rules, Part I, Chap. I, 4.

The rules may be consulted as to the qualifications of patwárís, the register of candidates, the examinations required, the place given to hereditary connection in the selection of candidates for vacancies, the conditions as to residence (with his family) inside the circle, the disabilities as to trade and money-lending, the rules for discipline and removal[2].

§ 4. *Patwáris' Duties—General.*

Part I, Chap. II. Chapter II of the Rules deals with the duties of the patwárí. He is to report to the Tahsíldár any calamity affecting land, crops, cattle, or the agricultural classes; and to bring to notice alluvial and diluvial action of rivers; encroachments on Government lands; the death of revenue-assignees and pensioners; progress of works made under the Agricultural Loans and similar laws; and the emigration or immigration of cultivators. He is to be ready to make surveys and field inspections, and to aid in relief of agricultural distress, and in elections under the District Boards Act (XX of 1883).

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[1] It is levied at a rate not exceeding 6¼ per cent. on the land-revenue; it is collected by the headman and paid into the treasury. The patwárís are then paid from the tahsíl according to the salary rules.

[2] As to special rewards to patwárís after long approved service, see *F. C. Circular*, No. 34 of 1889 (§ 17 of the *Consol. Circ.* No. 28).

He is to allow any one interested to inspect his records, and he has to supply extracts from them on receipt of the fee, (of which a scale is provided). When revenue collections are in progress, he must furnish any information that may be required to facilitate the collections; *but he himself is not permitted to take any part in the collection of the revenue.*

§ 5. *Preparation of the Annual Land-Records.*

His special duty is to prepare and keep up the ANNUAL RECORD already spoken of.

The Annual Record, I may briefly repeat, is merely a set of forms exactly like those which, signed and verified as true for a certain date, form the Initial Settlement Record-of-Rights. See Chap. I, pp. 561–6, ante. It is unnecessary to describe again the 'Khasra girdáwarí,' the 'Jamabandí,' the 'Register of Mutations' (of proprietary and occupancy-tenant interests occurring by death and succession, by gift, sale, or possessory mortgage). Copies of the field-map are kept ready, so that fresh fields and changes in interior boundaries may be surveyed and plotted in from time to time, the alteration lines being made in red or some distinctive colour[1]. The reader will do well to re-examine the *forms* of each paper, given in the *Rules*, and understand the columns, with the aid of the small-print explanations attached thereto.

Rules, Part I, Chap. VII, VII A.

§ 6. *The Diary.*

But, besides these forms, the patwárí is required to keep a 'roznámcha,' or diary, in which, in separate entries, day by day, all notable occurrences are recorded—as enumerated under twenty heads.

See Chap. III, Rule 31.

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[1] Under the village Settlement system, the maps have to be corrected as boundaries change:—in the Ráiyatwári systems, the boundaries have to be kept correct according to the maps: i.e. the boundaries as laid down at Survey (or subsequently by the proper procedure) must be preserved and cannot be altered.

§ 7. *Field Inspections.*

Another special duty is the inspection of the crops of each harvest, in order to fill up certain statistical returns. These are of great value: (1) as keeping the Collector aware of the condition and prospects of each estate; (2) as furnishing a basis for the compilation of tables of averages in respect of produce of all kinds of crops and classes of land, which, at the time of a revision of assessment, will be of great use in drawing up average-yield statements of lands required for calculating 'assets' and testing revenue-rates. This inspection work is locally known as 'girdáwarí.' Inspection of the autumn harvest commences on 1st October, and for the spring harvest on 1st March; thus ensuring the principal crops being seen when full-grown and ripening before harvesting. There may be extra crops (as melons, tobacco, &c.), which require an additional inspection just after 15th April. It is at these inspections that the 'Khasra girdáwarí,' spoken of above, is made out.

These inspections not only (1) obtain an accurate account of the crops, but (2) bring to light changes which have occurred in rights, rents, and possession; and (3) show what amendments or alterations will be needed in the *shajra* or field-map. Opportunity is also taken to inspect boundary-marks, and see what repairs are needed. The inspections completed, abstracts of crops (Naksha jinswár) are made out, the papers regarding mutations of rights, &c., and the annual 'Fard-báchh,' or account of the distribution of the village revenue and cess demand. The rules are quite explicit on these matters, and there is no need to repeat them; but I may mention the excellent rule which directs *that every owner and cultivator is to be supplied on demand with a 'parcha book,'* which begins with a leaf showing the 'jamabandí entries' regarding the applicant (so that he may know exactly the area, rent, or revenue, and all the particulars about his holding, as authoritatively recorded), and contains a series of detach-

Rules, Part I, Chap. IV.

Rule 40 (Appendix). See Chap. V.

Chap. V. 53.

able receipt-forms sufficient for ten years, so that no one can have any difficulty in getting an intelligible, formal receipt[1] for his rent or revenue payments, as the case may be. Any owner or tenant can also go to the patwárí, and without fee, demand that on his 'parcha' be written the correct demand against him for the instalments of the current year: thus he ought to be efficiently on his guard against any over-charge, or against paying without getting a proper acknowledgment.

§ 8. *Quadrennial Returns.*

I have already mentioned that a *jamabandí*, which is really a compact record-of-rights in itself, giving all the (corrected) details about each holding, is prepared in a specially complete form and with certain appendices, once in four years. This forms the basis of the annual (or 'abbreviated') jamabandís till the next quadrennial period comes round. The patwárís' duties are so arranged that the quadrennial returns fall due in different years, for different circles: and thus the inspecting officers (of whom presently) can efficiently supervise the process of their successive preparation.

Rules, Part I, Chap. VII

Lastly, if any one desires to know how a patwárí sets about making a new field-map or correcting an old one, for the purpose of showing new cultivation, &c., he should read Chapter VII A of the Rules.

§ 9. *The Kánúngo.*

Though I have entered on the subject of village officers, I will for the moment pass over the *headman*, who ought to follow next, in order to introduce at once the important agency by which the *patwárí* is constantly instructed, helped and supervised in the performance of his duty.

The Rules formally prescribe the duties of this class of officer; and the *Consol. Circulars* (Part III. Village

Part I, Chap. IX–XII.

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[1] Instead of a dirty little illegible scrap of paper, which no one could trust, as it might be fabricated at any moment.

Agency, No. 29) contain further details. Kánúngos[1] (retaining the title of the old Muhammadan institution) are divided into three classes—

(1) Field-Kánúngos, each of whom has charge of about twenty patwárís' circles;

(2) The Tahsíl—or Office—Kánúngos, one to each tahsíl, and one as assistant to—

(3) The District or 'Sadr' Kánúngo.

§ 10. *The Field-Kánúngo.*

While the patwárís are (1) inspecting crops, (2) preparing the 'fard-báchh' and the mutation papers, and (3) in alluvial villages, making out the papers regarding alluvial or diluvial changes, the Field-Kánúngo's whole attention is given to the supervision of the work. He has to attest every entry in the mutation register, and is responsible for the correctness of all the patwárís' returns. He must, of course, reside in his circle, and be constantly moving about.

The patwárís, having filed their 'jamabandís' at the end of August, the Field-Kánúngos will go to the tahsíl head-quarters during September, and check them all thoroughly, seeing that all *mutations* allowed by the Revenue officers have been duly incorporated, and that the abstracts filed with the *jamabandí* are correct.

Part I, Rule 128, (Appendix giving the form).

The Kánúngo keeps a *diary*, and also a Register of Patwárís, showing the character of each patwárí's work.

§ 11. *The Office-Kánúngo.*

Rule 117.

This officer compiles, from the local statistics for each estate, total figures for each assessment circle[2], and each tahsíl. These are:—

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[1] Properly the word is Qánúngo: but it is so familiar with the *K* that I retain the official form: They are now very generally called 'Supervisors.'

The rules contain full details as to the qualifications, pay, appointment and dismissal of those officers; but it is unnecessary to go into these matters in the text.

[2] That is why at revisions it is objectionable to change the assessment circles once adopted, without sufficient reason.

(i) Statistics of each year's area,
(ii) Results of each harvest,
(iii) Yearly revenue-account,
(iv) Yearly total of mutations of every kind,
(v) Abstract of ownership, mortgage-claims, and revenue-assignments,
(vi) Abstract of cultivating occupancy,
(vii) Rents,
(viii) Statistics of carts and cattle.

This officer also has the custody of the patwárís' records after they are filed, and of blank forms for issue.

§ 12. *The District-Kánúngo.*

This officer lives at head-quarters, and compiles the *district* statistics, as the Office-Kánúngo does those of the *tahsíl*; the forms, of course, being the same. As an older officer, and of superior experience, his inspection should be valuable; and therefore he is expected to go on tour fifteen days in the month from 1st October to 30th April, and for the rest of the year, to inspect at least one tahsíl in the course of each month. He is generally responsible that all orders are carried out by the Field-Kánúngos and patwárís in his district.

He keeps a register of all patwárís in a form which shows the particulars of their appointment, what villages are in the circle, what amount of revenue is involved, what number of field entries (i.e. number of field-index entries, and number of 'jamabandí' entries) each has to look after. It has a note at the end showing the character of each patwárí's work.

As already remarked, the Kánúngos are in their turn, inspected by the Tahsíldár and his deputy. These latter have to sign the village mutation-registers at least once a year.

We may now return to the village officers.

§ 13. *The Headman and Chief Headman.*

Rules, Part I, Chap. XIII.

In the Panjáb, the headman is styled 'lambardár.' As many, if not most, villages have several sections, there are usually several 'lambardárs,' and thus the advantage of representation of many co-sharers by one man is to some extent lost. It is thought necessary, therefore, to have as agent for a number of representatives, a single *chief headman*, with whom it is easier to communicate, and who can be held responsible. Such is the origin of the ''Alá lambardár,' or chief headman's appointment.

Part II, Chap. II. 30 et seq.

The Rules must be studied for all matters of detail.

In first appointments regard is had to hereditary claims, extent of property in the estate, services rendered to the State by the candidate or his family, and to personal influence, character, ability, and freedom from debt.

Rules Part II, Chap. II. 38, 39.

The chief headman (where one exists) is the channel of communication with other headmen, and is generally responsible that the other headmen do their duty. He is remunerated by a portion of the 'village officer's' cess equal to one per cent. of the land-revenue. It is collected by the headmen, and by them paid to the chief.

There is no difference between the chief headman and other headmen in respect of emolument or of duties, except that the former gets an extra one per cent. on the revenue.

The duties of a headman are specified in Rule 36 of the chapter above quoted. From a revenue point of view there is one matter that requires notice. The headman's position differs from what it is in other provinces, owing to the fact that he has to deal with a great number of *cultivating co-proprietors*, often holding very small shares. He is therefore not merely remunerated by a 'pachotra,' or fee of 5 per cent., leviable over and above the revenue, from the landowners, but his responsibility in the matter of collecting the revenue is somewhat different. As a landowner or a co-sharer he is jointly and severally liable like any other co-sharer; but *as lambardár* he is not held responsible for any revenue in arrear due from an actual defaulter; nor is he (as he is under

Act XVII of 1887, sec. 28. Rules, Part II, Chap. II. 36.

the North-Western Provinces Act) himself treated as a 'defaulter [1].' The Act only imposes on him the *duty of collecting* the revenue (from the estate or subdivision of an estate for which he is headman) and of paying in the same at the proper time and place. And when he cannot get the individual co-sharers to pay, and there is no fault of his, he is not compelled (as under other provincial laws) to bring *a suit* against the co-sharer (after himself making good the default); he may at once apply to the Collector for assistance, i. e. ask the Collector to set in motion direct coercive process against the actual defaulter [2].

Sec. 97.

§ 14. *The Zaildár and 'Inámdár.*

These offices are mentioned in the Act; and the Rules regarding them are included in the chapter (above quoted) dealing with headmen. It has happened in some districts that the lesser tribal chiefs and other persons of local importance, though not recognized as controlling landlords, were yet conciliated by grants of small jágírs or revenue-assignments, or freeholds of their own fields. The descendants of such are still found enjoying their 'inám. In other places there are men of local influence and substance, whose aid can be usefully invoked in repressing crime and in getting information about heinous offences; who can give advice about local matters, see that the headmen and other village officers do their duty, and also render assistance in survey work, crop inspection, compilation of statistics or other branches of revenue and district duty. These men, when so appointed, are called 'zaildárs [3].' The heads of duty are specified in Rule 24, and the remuneration, either by a

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[1] The student will do well to refer to the section on Headmen, North-Western Provinces (chap. iv. p. 285, ante); and the rule in the Central Provinces also may be compared (chap. iv. p. 505).

[2] The Collector would, of course, refuse, and leave him to sue, if there was reason to believe that the lambardár was himself in fault, or that the alleged defaulter was not really in arrear. See some important remarks on the lambardár's position in § 10 of the *F. C. Consol. Circular*, No. 34.

[3] The district or sphere of their influence and action being a 'zail.' *Zail* means literally 'the margin of a grant or document'; and in old days the Zamíndári grants used to have in the lower margin a list of the names of villages belonging to the estate; hence *zail* would imply the tract of country specified in the margin of any appointment-warrant.

Rules, Part II, Chap. II. 24-26. small cess, or by an allowance out of revenue, is described in Rule 26. No explanatory remarks are called for.

§ 15. *Substitutes.*

Chap. II. 42, &c. It is only necessary to refer to the rules in this Chapter, which provide for the appointment of *substitutes* where the person who would otherwise hold the office is non-resident; or where old age, or physical infirmity, or minority, prevents a headman, zaildár, or inámdár from personally attending to his duty. The substitute enjoys the whole remuneration, or in special cases a moiety.

SECTION III.—THE CHIEF BRANCHES OF LAND-REVENUE BUSINESS.

§ 1. *District Duty.*

I have assumed that the student of these Provincial chapters on Revenue business and officials, will have read that devoted to the subject (in vol. i.) for BENGAL, where the system of district administration which has ever since been the general model throughout India, originated. I have in that chapter given in a certain amount of detail, an outline of the district officer's duty, which is generally true for all provinces, and is therefore not repeated. In selecting certain heads of *Revenue business*, as important for the student to attend to, it will not be supposed that the list is exhaustive. In fact, the object is only to describe just the most important branches of direct land-revenue administration.

The first duty of a 'Collector,' it will be supposed, is to collect the land-revenue, and, as this subject is dealt with fully in the Land-Revenue Act, I shall place it first. But the Collector has not only to collect, and to use his power to compel payment, but he has to watch his district, and discriminate carefully where real misfortune or calamity of season has incapacitated the proprietor from paying, and where remission or suspension (for a time) of the demand, may be necessary.

Again, though the general assessment of a district has been settled for a term of years, there may be special cases of assessment requiring attention, and especially in connection with the revenue of lapsed revenue-free holdings, and with the 'di-alluvial' action of rivers, which in a province with five great rivers (and a sixth and seventh forming or approaching, the two outer boundaries), is sure to give plenty of employment.

There is also a great deal of work in supervising and directing the local machinery; and in connection with tahsíldárs, headmen, and patwárís. Claims are constantly coming up for hearing, regarding the succession to lambardár-ships, and such like questions, which are often warmly contested. There are also orders to be passed on disputed transfers, which are noted in the Register of Mutations, but not consented to, because the heir who wants to be recorded is opposed by a rival, or the vendee of a field is opposed by a relation of the vendor, who denies either the power of the vendor to sell or the genuine nature of the sale. These questions and disputes are of constant recurrence. Then again joint-holders of estates quarrel, or without any actual quarrel desire to have their holdings and interests separately allotted; and these *partition*-cases are, in the Panjáb, regarded as revenue cases under the Act. There may also be various matters connected with boundary-disputes, and with the keeping up of survey and boundary-marks, to be attended to. These are direct land-revenue duties: there are also others which limits of space and other considerations induce me to keep out of this manual: yet they are indirectly connected with Land Administration. Such are the settlement of cases under the Act for acquiring land for public purposes[1], the management of estates by the Deputy-Commissioner as Court of Wards, and the grant of loans and advances for improvements, and other agricultural purposes, under the Acts relating to these subjects.

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[1] The Collector, as best acquainted with the land, has to propose the compensation to be offered in the first instance, and further, he will have to report the reduction of the revenue-roll in respect of the acres taken away.

These considerations will sufficiently justify the selection of the subjects which appear in the headings of paragraphs in this Section. It need only be further observed generally, that in all these matters there may be a need for something like the hearing of a suit: one person wants something done and another opposes it; or at least there is someone who objects to the order which the Collector is invited to pass: and, consequently, there is a necessity for getting up the parties interested, for hearing evidence, and so forth. Hence both the Act, and the Rules under it, make provision for procedure (as I have already mentioned), and endeavour to keep that procedure as simple and as little costly as possible; with that object the Act wisely prohibits the employment of legal practitioners in any matter where no legal knowledge is required, and where plain questions of fact only demand personal attendance, and common honesty and reasonableness for their disposal. Where the Revenue officer is empowered to pass orders, it is obviously necessary that authorities should not clash; and the civil courts are accordingly excluded from jurisdiction on the subjects which are proper for disposal by Revenue officers.

Act XVII of 1887, sec. 158.

These remarks, it will be observed, apply more or less, to any province under the North-Western system, to the North-Western Provinces, to Oudh, or the Central Provinces, as well as to the Panjáb.

(A).—Collection of the Land-Revenue.

§ 2. *The Agricultural Year.*

The year that is convenient for agricultural accounts and statistics is a year that begins with the commencement of operations for one harvest and ends with the in-gathering of the other harvest. So the Act fixes (by definition) the year as beginning on the 16th of June—when the first operations for the 'kharíf' crop ordinarily begin. For local reasons some other day might be better in particular districts; and the Act empowers the Local Government to vary the date; but I have not heard of any special order on the subject [1].

§ 3. *Instalments of Land-Revenue.*

Act XVII of 1887, sec. 62.

The Financial Commissioner is empowered, *notwithstanding anything in the record-of-rights*, to fix the number and amount of the instalments in which revenue is payable; and also the place of payment. Until such orders are issued, the instalments will remain as heretofore.

At present the revenue is paid in four instalments, two at each harvest, viz. (15th June and 15th July for the 'rabí,' and 15th December and 15th January for 'kharíf'). But I am told there is a tendency to prefer a single instalment for each crop. It is very often the case that dates for payment are mentioned in Settlement Records.

Secs. 29, 155 (1) Rules, Part II, Chap. XIII. 94.

The rates and cesses other than revenue, are payable along with the land-revenue according to rules made. The object is in all cases to give the owner time to dispose of his crop conveniently before the instalment becomes due. The pâtwarí, as already noticed, has, a month before the revenue of each harvest falls due, to make out a statement of the demand against each owner.

§ 4. *Place of Payment.*

Act XVII of 1887, sec. 64, and Rules, Part II, Chap. VIII. 68.

Revenue is payable to the Tahsíl treasury except in certain special cases. And there are special conditions regarding the cases (so numerous in the Panjáb) where the revenue is payable to a jágírdár or other assignee. In the case of some assignees, the revenue is payable in cash, but the amount to be paid at each harvest is determined by the appraisement of the produce: the rules provide for these cases.

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[1] Many returns, such as the revenue-roll for the year, and collection and balance statements, will more conveniently run from 1st October. This is a detail I need not enter into, as it concerns only offices and dates of returns (see *Financial Commissioner's Circulars*, 17 and 18 of 12th April, 1888, *Consol. Cir.*, No. 61). I need hardly repeat the remark that the 'agricultural year' spoken of, has nothing to do with the artificial 'Fasli' era invented by Akbar (vide vol. i. Chap. I, p. 13, and Beames' Elliott's *Glossary*, or Wilson s. v. *Fasli*). This is still referred to in some provinces, I suppose because it is in familiar use among natives: in the Panjáb its use is quite discontinued.

§ 5. *Suspension and Remission of Revenue.*

The system of *fluctuating* assessments that is now applied to some of the most precarious tracts, and the separate charge of a water-advantage or owner's rate on canal land—a charge which is not levied if water fails—both combine to make any general system of suspensions in bad seasons of less importance than it would otherwise be. But still the climatic variations that even good districts are liable to, sometimes necessitate special action. Under the Rules, the Collector is empowered to take action on his own motion to suspend the revenue-payment at any instalment; but he must report the fact to the Commissioner, who, if necessary, can modify or cancel the order.

Rules, Part II, Chap. IX. 79.

When the first instalment of the next succeeding harvest becomes due, the Collector has to determine by order, what portion of the suspended balance is to be collected in addition to the current instalment[1].

The orders thus issued are reported and may be cancelled or modified as in the case of suspension orders. Orders in both cases are also finally reported to the Financial Commissioner.

Where actual *remission* is needed, the revenue-payment will, of course, be suspended (if not already so ordered); and the Collector must then (through the Commissioner) send the case up to the Financial Commissioner for such sanction as may be necessary under the orders of Government.

The whole subject has been dealt with in a very instructive *Consolidated Circular* issued by the Financial Commissioners (Land-Revenue, No. 31). The *Circular* should be read by students desirous of getting an insight into the general agricultural conditions of the Panjáb. As in the rules adopted for the North-Western Provinces, disaster is classed under two heads. (1) Purely local disaster, such as hail, locusts, and local flood, (2) widespread failure of rain and canal water. In the first case, storms often move in very narrow lines, and floods affect only particular fields: here then we have a case for the special study of *individual*

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[1] It is often the case that the amount suspended cannot be made good till the *second* of two succeeding good harvests.

holdings as shown (by the *Khasra girdâwarî*) to have suffered. Here also it is to be remarked that assessments at Settlement do not and cannot make allowance for such special disasters: hence *suspension* is called for. In (2), the disaster is more apt to affect whole areas: but when the entire estate is liable to such evils, it is probable that the Settlement Officer has taken the liability into calculation and has fixed a lower assessment; and the matter has to be inquired into, because it may prove that the case is one in which the profits of good years may fairly be expected to cover the loss in a bad one.

But special attention is called to tracts (like the Delhi Districts) where prolonged cycles of dry years occur, and where the revenue-assessment is expressly arranged, on the understanding that it cannot be exacted in bad times (Circ. § 12). A most useful caution is added against supposing that well-irrigation always secures land. Wells are often dependent on rain for their full supply, and their water does not completely raise the crop but rather supplements the natural rainfall. Failure of rain may therefore render the crops a failure, because (among other causes) the cattle are unequal to the extra work thrown upon them, and they die off in numbers.

It is understood that *suspension* is the more general remedy, and *remission* resorted to as the exception. It is only when the calamity is such that the recovery of the suspended arrears, by easy instalments even, is impossible, that remission has to be recommended. When remission is necessary, it is granted on a consideration of the actual effect on the crops and the profits from them, and is not withheld merely because the sufferer has *other sources* of income which might conceivably enable him to pay (Circ. § 19).

As regards *suspension*, attention should be called to the existing rule, which is, that in ordinary suspension, the Collector does not determine at the time, what the instalments for ultimate payment are to be. He waits till the next harvest, notes its results, and then orders how much, if any, of the suspended payment is to be recovered

Part II, Rule 80 Circ. par 23.

along with current dues. If for three years it is not found possible to order recovery, Government will ordinarily sanction remission.

There may be cases where the disaster has caused such *permanent change* in the condition of the estate, that the original assessment must be reduced.

Act XVII of 1887, sec. 59 (1) (c) and Rules, Part II, 62.

Such revisions are conducted under the Act and Rules.

In estates already provided with a *fluctuating* assessment, there is no question of suspension or remission; but in some forms, there are certain fixed sums,—as a rate on the land in its uncultivated aspect, a charge on wells (abiáná), a profit on date-palms,—which are chargeable in addition to the annually ascertained crop-areas. It may be that some relief as regards these permanent charges is needed.

The *Circular* adds instructions as to remitting that part of the revenue which is due to the Canal Department, &c.

It is hardly necessary to add that the *cesses* are suspended or remitted wherever the land-revenue is.

There are special forms for reporting suspensions and remissions, and instructions for preparing the reports; for these details the *Circular* itself must be consulted[1].

§ 6. *Classification of Estates.*

In the General Chapter, I alluded to the orders of the Government of India requiring[2], as one of the main objects of the Agricultural Departments, a more complete ascertainment of agricultural conditions, by effecting, in course of time, in every province, a classification of districts, and, where necessary, of estates and holdings, into 'secure' and 'insecure.' Directions for carrying out these principles have been issued in the Panjáb in F. C.'s *Consol. Circular*, No. 31, § 40. Maps of each tahsíl are prepared showing (on a scale : 4 in. = 1 mile) :—

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[1] See *F. C. Consol. Cir.* 31, § 28 and Act VIII of 1873, sec. 47 (Canal Act), and regarding Multán and Muzaffargarh Canals, Annexure A to the *Circular*.

[2] *Gazette of India*, 58 R. 12th Oct. 1882 (Supplement to *Gazette of India*, of Oct. 14th, 1882). See vol. i. Chap. V. p. 371.

(1) Areas subject to fluctuating assessment (including that on the well-lands of Jhang or the 'Dáman' of Dera Ismaíl K͟hán: and including also all *portions* of estates subject to the alluvion and diluvion rules).

(2) Areas of waste, forest, &c.

(3) 'Insecure' areas.

Each has a separate colour: the maps show the boundaries of all 'estates' (i. e. *mahâls* subject to one sum of assessment), and assessment circles. The collection of tahsíl maps is accompanied by a smaller scale *district* map, as a sort of finder or index.

In considering what is 'insecure,' the Collector cannot, of course, take account of purely occasional and unforeseen visitations, like hail, locusts, &c.; he has to consider what tracts are liable to drought, periodic floods, and losses, the recurrence of which is known to be probable—in short, the tracts in which suspensions and remissions are likely to occur again and again from foreseen causes. In the Panjáb it is not possible to say, as a hard and fast rule, that even estates with 50 per cent. of the area supplied with irrigation, are in the class 'secure.' The distinction must be based, not so much on the percentage of irrigation, as—

> 'on the character of the irrigation, the system of cultivation, the quality of the soil, the degree of the variation in rainfall to be expected, and in fact broadly, on all the facts which make clear the distinctions in the degree to which the net profits of estates vary from harvest to harvest. If, after paying regard to all these factors and drawing upon his own special or local knowledge, the investigating officer is of opinion that the general and ordinary rules of suspension and remission will not in any but very exceptional circumstances have to be applied to any tract, estate, or part of an estate, he will class it as secure.'

The maps are to be accompanied by a scheme for working suspensions occasioned by drought, periodical floods, and similar causes (case ii. in the preceding §).

The Government of India had suggested the possibility of determining a *ratio* between the amount of crop lost and the amount of revenue demand to be suspended. 'No automatic adjustment of suspensions to the degree of failure of crops could be made to work' in the Panjáb. 'But at the same time it seems possible, and is certainly desirable for the guidance of officers in those parts of the province where suspensions are most frequently required, to draw up a general or exemplar scale of suspensions suitable to the known condition of each tract. Such a scale must be founded on a consideration of the past revenue history and the present revenue circumstances of the special tract to which it is to apply.'

§ 7. *Realization of Land-Revenue.*

If revenue is not paid on the date fixed for the payment of the instalment, it becomes an 'arrear of land-revenue,' and the person liable for an arrear of land revenue is a 'defaulter.' Moreover, the costs of any process issued for the recovery of the arrear become part of the arrear.

Act XVII of 1887, sec. 98.

The 'village officer's cess[1],' and other local rates, are not land-revenue, but they can be recovered like land-revenue. Other Acts often provide that money or payments due to Government under them, may be recovered as arrears of land-revenue, and in that case the same procedure applies.

§ 8. *Certificate of Arrear.*

Sec. 66.

The important question arises, How is it known that an 'arrear' is really due? Section 66 answers the question by providing that a statement of account certified by a Revenue officer (i. e. a person with the powers of Collector, as the rules direct) shall be *conclusive* proof of the existence of an arrear of land-revenue, of its amount, and of the person who is the 'defaulter.' If, however, the person denies his liability *and pays* the sum demanded, under protest made in writing at the time of payment (and signed by him or his agent), he may contest the matter by filing a civil suit for recovery of the amount paid in. Sec. 78.

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[1] Not any 'village cesses' which the proprietary body levy by custom for their own benefit, like 'stráfi,' &c. These are not recoverable as revenue, but by suit only.

§ 9. *Processes for Recovery.*

Arrears of land-revenue can be recovered by a series of processes increasing in severity from the issue of a simple 'dastak,' or writ of demand, to the sale of the estate, and even by proceedings against the defaulter's immoveable property other than that on which the arrear has accrued.

Sec. 67. The Section which details the series, is exactly the same as the old law, and the same in all essentials as what is enacted under all systems deriving their origin from the North-Western 'village-Settlement' system[1]. No special comment is therefore needed on Chapter VI. of the Act, which will, itself, be read, on this subject. When an estate is sold, it should be remarked that the previous sanction of the Financial Commissioner is required; and the student will notice, that *sale* is not the first and immediate step for realization, as it is under the Bengal law. Section 76 provides that when the estate is sold, it is so 'free of all incumbrances'; and 'all grants and contracts' made by any person other than the purchaser, become void as against the purchaser. But occupancy-rights of tenants and certain other rights, are saved. This follows from the provision which is part of the general basis of the State Revenue-rights, viz. that the land-revenue is a first charge on the rents, profits, and produce of the estate or holding in respect of which it is due. And no execution can issue against such rents, profits, or produce till the land-revenue is satisfied. Sec. 76. Sec. 76 (2). Sec. 62.

It may be remarked that in the Panjáb, sales for arrears are almost unknown—the issue of the writ of demand or 'dastak,' or perhaps a short detention of the person, is sufficient; and more rarely the transfer of a holding or division of the estate to a solvent co-sharer.

The details (with forms of warrant, &c.) regarding the

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[1] Compare for instance Sections 148 to 150 of the North-Western Provinces, Act XIX of 1873, Act XVII of 1876 (Oudh), Sections 113 and 156, Act XVIII of 1881 (Central Provinces), Sections 92 to 114.

Act XVII of 1887, sec. 64 (1), and Rules published in *Gazette*, 18th Jan. 1890 (*Notification* No. 16).

process of recovery, are given in the rules, and in F. C. *Consol. Cir.* IV. 34.

The lambardár's duty in recovering revenue which he is called on to collect and pay in, has already been alluded to (p. 740, ante).

(B).—Special Assessments.

§ 10. *Circumstances under which they become necessary.*

Act XVII of 1887, Chap. V, sec. 59.

This is a kind of duty which may constantly recur irrespective of the general Settlement of a district. The Act, it will be observed, makes a sub-head in Chapter V for this subject. Such special assessments have to be made—

Sec. 60.

(*a*) When estates are formed by the special colonization of hitherto unassessed waste, see p. 550, ante);

(*b*) when a revenue-free or assigned-revenue holding is resumed or lapses, and revenue has to be paid by the new holder, or a Settlement has to be made with the owner;

(*c*) when, apart from special cases under section 60, an ordinary lease or grant of waste land has to be assessed;

(*d*) where any assessment has been 'annulled' for arrears, or the landowner has refused Settlement, and the time for which (consequently) the land has been taken under management by the Collector has expired, or a new assessment is necessary;

Sec. 41, 2.

(*e*) where there are pasture lands or natural products or mills, fisheries, &c., which may be assessable with revenue, and such have not been included in a land-revenue assessment;

(*f*) when alluvion and diluvion cause revision to be necessary, or the spread of sand or other calamity has necessitated a similar action.

In all these cases (which I have *described*, and not stated in the exact words of the Act, the Financial Commissioner is empowered to make rules. Subject to such special rules, the ordinary principles of assessment, as to the calculation of assets and the share taken by the State, apply as much as in the case of a general assessment.

The Rules do not require any notice, except perhaps the cases (*b*) and (*f*), on which some remarks may usefully be made.

Rules, Part II. Chap. VI, and Rule 60 A (*Not.* No. 230, Oct. 17, 1889).

§ 11. *Assessment of Lapsed Revenue-free Holdings.*

This work always requires a good deal of attention: especially when there are various shares in which the assignment is enjoyed. I have spoken already of the special rules on this subject in the case of the (so-called) jágírdárs of Ambála. Attention of patwárís and supervisors has also to be given to the due reporting of the death of any revenue-assignee or revenue-free holder, so that the succession may be duly recorded, and also that, if the grant expires with the life of the present holder, the case may be reported and orders solicited as to whether the grant is to be resumed and the land assessed, or whether a portion or the whole of the grant is to be continued[1]. Favour is often shown, although in form the grant is specific as to its duration. As to the assessment; when the resumption is ordered, it may be that the revenue is already known, and all that has to be done is to determine the proper person who in future will hold the land and be liable for the revenue. If the land is not assessed, the Collector assesses it in 'conformity with the principles and instructions on which the current assessment of the tahsíl or district was made.' If the late assignee was also owner, of course the Settlement is made with him; but if not, the Collector will consider whether his occupation of the land or enjoyment of the land or the rents thereof, has been, as a matter of fact, such as to entitle him or his heir, to be made liable for the land-revenue. If so, he will hold the Settlement.

Part II. Chap. VI, Rules 59, 60.

Rule 60 A (added in *Notification* of 18th Jan. 1890).

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[1] See *F. C. Consol. Circ.* (Land-Revenue), No. 37.

§ 12. *Re-assessment, owing to Spread of Sand.*

Revision of assessment on the ground of the spread of 'sand' specially refers to the case of the Hoshyárpur (and I believe part of the Ambála) district, where there are low hills which give rise to furious torrents carrying down mud and sand, which in the dry season spreads over the country, and causes the land to become gradually desert and unculturable. In such cases a revision of the settlement may become needful[1].

§ 13. *Alluvion and Diluvion.*

In a province where there are so many rivers flowing out of the hills on to a soft alluvial plain, having no real bed, but merely shifting about, according to the rise and fall of the floods, in a wide shallow valley or strip of natural depression, it may be imagined that there is a great deal of work for the revenue officers in the matter of alluvion and diluvion. (See p. 534.)

I do not speak here of the *law* as to rights arising when land is washed away and re-formed, or when new land is washed up, or when the river takes a turn as regards the 'deep-stream,' and so cuts round *behind* a village in *front* of which it formerly flowed (fancifully called 'avulsion' as if the land was really torn away and floated to a new position). All these are questions of local custom, and of discussion in law suits (and most difficult and unsatisfactory cases they are)[2].

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[1] Such sandy torrents are called 'Cho' locally. There is no reason why with proper forest or reboisement operations, they should not all, in the course of time be put a stop to: the opinion of experts is quite unanimous on the subject. There are certain legal difficulties in the way of obtaining control of the lands in the low hill range, which must be placed under treatment in order to attack the *sources* of these torrents: and there are also difficulties connected with the removal of Gújar hamlets of cattle-graziers. It is impossible for me to say why these difficulties are not got over, as they ought to be. But the subject has hung fire since 1878, when I first reported on it. Some details of the loss of revenue caused, may be found in Major Montgomery's *S. R.* Hoshyárpur, §§ 3, 18, and 169.

[2] The law is still contained in the antiquated and useless Regulation XI of 1825, a law which has this grave defect, that while laying down certain principles, it nullifies the whole (in nine cases out of ten), by giving force to local customs. But of course in such a province as

The Rules merely direct that when the land of any revenue-paying estate is injured or improved by the action of water or sand, the land-revenue due on the estate under the current assignment shall be reduced or increased in conformity with instructions issued by the Financial Commissioner with the sanction of the Local Government. The present practice regarding villages subject to river-action is contained in *Financial Commissioner's Consolidated Circular*, No. 33. It will be borne in mind that we are not here speaking of villages or tracts for which a fluctuating assessment has been sanctioned (p. 595), but of those where the ordinary action of the river does not render such a step necessary.

Part II, Chap. VI, 61, and Act XVII of 1887, sec. 59 (1 e).

Such villages will comprise (1) cases where no special alluvial area has been marked off; (2) cases where such an area (called an alluvial *chak*) has been separated, and a separate record of the rights, and a separate assessment, of the *chak* has been recorded.

The inquiry now spoken of will accordingly have reference to the entire village or estate, or only to the alluvial chak, according as the village presents one or other of the cases (1) and (2).

Sometimes the part of the estate liable to be affected is removed from the ordinary assessed area, and kept as a separate 'chak,' liable to annual measurement when the floods subside, and to having special measurement and assessment papers annually prepared. But whether the separate 'chak' system is adopted or not, the increase or decrease of revenue is arranged for in one of two ways, as specified in the *Settlement Records* ('wájib-ul-'arz'). On

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the Panjáb, local customs exist everywhere, but they are customs often quite unsuited to the present condition of things. For instance, some customs arose when hostile tribes held the country, and a 'deep stream' between lands of tribes at feud, was the only thing that kept them from one another's throats: hence land that 'went over' by change of the deep stream was naturally lost to the old holders, unless it came back again in the same way. But such a rule is now quite unjust. What we want is a repeal of all local customs or at least the re-consideration of them. But really nothing will be satisfactorily done till a uniform system of river survey is carried out by which every riverain village will have *fixed* boundaries which will represent its limits whether under water or not.

one plan each field is separately considered; and taking the assessment rate applicable, the amount of revenue is increased or diminished according as the field has been enlarged or cut away, improved, or spoilt by sand, during the year. On the other plan, no notice is taken of alterations either for good or bad, i. e. of increase or decrease of area, or of assets calculated over the culturable area, as long as the change falls short of a *minimum*—ordinarily, 10 per cent.—on the whole culturable area of the estate as fixed at time of Settlement. It may, however, happen that though the loss or gain does not call for a change in the total assessment of the estate on the *chak*, it does call for a redistribution of the assessment, to save individual sharers from loss.

Subject to any local rules providing that increase or decrease in the culturable area falling below a specified proportion, shall not be taken into account, Government is entitled to assess all land recorded as unculturable at Settlement, but subsequently made culturable by river action, as well as culturable land subsequently gained by accretion from the river bed.

In theory, when the assessment is claimed to be reduced, the whole estate or the whole *chak*, is liable to re-assessment; so that should the loss be counterbalanced by increase in other ways, no reduction would result in the net total. Ordinarily, however, this theory is not enforced, and lands not affected will not be enhanced, nor culturable waste (which is allowed for in the Settlement) be charged. Only unculturable waste rendered culturable, or new (culturable) deposits, will be assessed, and lands under-assessed with the express condition of increase on improvement, be brought up to full rates.

Should land liable to assessment be formed, and (by custom or law) not belong to any existing estate, it is a new estate at the disposal of Government.

A list of villages liable to such changes is kept at the tahsíl; and when the rivers subside after the close of the rainy season, the tahsíldár or his deputy inspects them and notes whether any change calling for revision has taken place. The patwárí makes the necessary measurements and maps (distinguishing culturable from unculturable land). The assessment is made after the season for sowing the *rabí* is passed, because then the true state of the land is appreciable. It is also considered whether the new land should bear the full rate (of the Settlement) or something less.

In the case of diluvion, the statement prepared should show how the reduction is to be distributed among the several holdings which have suffered loss. As to the sanction required to assessment changes, and the date from which they take effect, the *Circular* itself must be consulted.

I may only add that the work of the tahsíldárs and patwárís, in alluvial and diluvial measurements, has to be inspected in the cold season. This work is very instructive, and many of the younger officers obtain their first initiation into survey and 'patwárís'' work, in testing the diluvion and alluvion papers in camp.

(C).—Maintenance of Records.

§ 14. *Importance of Mutation Registers.*

I have necessarily said something of this already, but here I may just repeat that the improved practice of to-day demands the constant keeping of the record of rights up to date, by the maintenance of an annual set of papers kept in the patwárí's hands, and altered from time to time as changes occur.

The Collector, burdened as he is with general duties under a variety of Acts and laws, is materially assisted in the duty of inspection and in the control of the local staff, by the Director of Land-Records, who is always on the move. The basis of the whole business is to get notice of all changes in the holdings. The successor to a deceased holder, or the vendee or donee, or the mortgagee with possession, is bound to report the change, and to get his name 'put in' (dákhil) on the registers, and the deceased outgoing holder's name 'put out' (khárij). Hence the register in which changes are noted, previous to their being incorporated after approval, in the record of rights or *jamabandí,* of the village (at the end of the year), is called the 'dákhil-khárij register.' This mutation of names is not only needed for the security of rights, but also to enable the Collector to come down on the right person for the revenue; and I may once more refer to the provisions and penalties of the Land-Revenue Act, as facilitating this branch of work, which is still a source of some difficulty, owing to the neglect of parties to report transfers at once. The vigilance of the patwárí in finding out when any change occurs, is relied on to overcome the difficulty.

Act XVII of 1887, secs. 34-40.

Sec. 36.

But it often happens that there is a dispute about a transfer. A man dies, and the claimant-heir has to get his name registered as successor; but other heirs deny his right and the fact of his succession: he is illegitimate, or claims by virtue of an adoption which is disputed. Or a vendee seeks to get *his* name entered, and others of the vendor's family object that no possession has been given; the transfer is 'farzí,' or fictitious (as they express it); the vendor is a widow who has only a life-interest, or is a sonless male owner, who has (by custom) no right to sell to the prejudice of his collateral heirs, without necessity, and so on. Hence every *mutation*, not acquiesced in by all parties (after a notice for objectors has been issued) is reported from the tahsíl to the district, or to the tahsíl (if the tahsíldár has the requisite grade-powers) for orders; and the question of fact is looked to. If possession has really been given, then the recusant party is referred to the civil court; if not, and if there is *primâ facie* reason to believe that the dispute is such that it cannot fairly be settled under section 36 (2), then no entry is made.

(D).—Maintenance of Boundaries and Survey-Marks.

In connection with the perfecting of land-records, it is of course essential that *survey* and *boundary*-marks should be repaired and kept up. Interior divisions of fields and the like may change, and new fields be added out of the waste. There are no permanent boundary-marks here; but village boundaries, and boundaries of estates, are permanent, and must be kept up. And there are permanent survey indications, not being boundaries, such as base-lines and the like. The Indian Penal Code provides a heavy penalty for wilful injury to marks; but such marks may fall or be injured by accident, or merely fall into disrepair through neglect. The whole subject is provided for in sections 102 et seq. of the Land-Revenue Act. Briefly, the Revenue officer notifies the persons interested in the land, to repair or erect the mark, or, if they fail to do so in the set time, he does the repair himself and recovers the cost from the person or persons whom he decides to be liable, as if it was an arrear of land-revenue, under the orders of the Collector. Every village officer is under a legal obligation to furnish a Revenue officer with information respecting the destruction and removal of, or injury done to, a survey-mark lawfully erected on the estate.

Act XVII of 1887, sec. 102, seq.

Sec. 109.

(E).—Partitions.

The Act acknowledges this as a subject of land-revenue duty, since the Partition Act, XIX of 1863, was never in force in the Panjáb; and really both the complete separation of estates (perfect partition) which results in a separate-revenue liability, and the 'imperfect' partition which results only in the separation of the holdings (the estate still remaining liable as a whole to Government) are matters which not only can best be disposed of by the Revenue officer, but both directly and indirectly affect the collection of the land-revenue.

The Act prescribes the legal principles and powers requisite for dealing with the subject. No supplementary

Act XVII of 1887, Chap. IX, secs. 110–126.

Rules are provided for, except that the Financial Commissioner is to regulate *costs* and the distribution of the Sec. 124. charge among the parties to a partition case.

But the practice of partition, especially as to the officers employed, the nature of the records required, and other particulars of procedure[1], will probably be described in a *Circular* order.

It will be observed that, unlike the North-Western Provinces law, the Panjáb Act maintains the old policy of not allowing 'perfect' partition without the sanction of the chief controlling revenue authority.

But as regards a private estate, *or an occupancy-tenancy*, any joint-owner, or joint-tenant, may apply to have his proportionate holding allotted for several enjoyment; provided all the persons interested have, in writing, admitted his right. Partition of certain properties (such as burial-grounds and places of worship) cannot, in the absence of express agreement, be made; and the Revenue officer is empowered to refuse partition of certain other properties (including sites of villages), if he thinks fit. The formal procedure is clearly laid down in the Act, and needs no description here.

If there is a *question of title*, or of the *mode of making* the partition, or as to *what property is to be divided*, the Revenue officer may either refer the parties to a civil Sec. 117. court, or decide the question himself, as provided in section 117. In this latter event the Revenue officer's decision is *appealable as if it were the (Civil) decree of the District Judge*. On this subject *Financial Commissioner's Book Circular*, 41 of 1887, remarks:—

'Section 117 gives to Revenue officers hearing a claim for partition a discretional authority either to decide any disputed questions of title which may be raised by the claim, or to reject the application for partition until such time as the question of title has been decided by a competent court. Some instructions appear to be called for as to the manner in which this discretion should be exercised. The cases which will involve action under this section may be divided broadly into two classes,—first, those cases in which an applicant, believing that the partition procedure would give him an advantage over the opposite party, has chosen that procedure in order to evade direct resort to the civil courts in respect of a question of title, which he knew would be disputed; and, secondly, those cases in which the applicant is acting in a straightforward manner,—that is to say, in which a partition is really desired by him, and is the principal matter in which he requires official assistance. In the class of cases first mentioned, the Revenue officer should decline to grant the application for partition, and leave the applicant to pursue the matter in the civil court or not as he may choose in his own interest. In the latter class of cases the Financial Commissioners consider that a Revenue officer should exercise the full jurisdiction vested in him by the law, and should refrain from putting the parties to the trouble of separate proceedings in a civil court.'

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[1] The difficulty is to make the partition fair, and at the same time not unnecessarily to disturb existing possession. Each co-sharer is not unnaturally anxious to be allotted the particular fields which he has been holding and working at before the partition. This is not always possible, but a skilful partitioner will often succeed in approximating to it.

In revenue-paying lands and rent-paying tenancies, an essential part of the proceeding is to apportion the share of revenue or rents (as the case may be) for which the separated holdings will be liable.

The proceedings terminate with a formal 'instrument of partition,' and the different sharers may be put in possession, as if a decree for immoveable property were being executed.

The Act takes cognizance of cases where people may have made a friendly partition without the intervention of a Revenue officer (just as the Civil Procedure Code does in the case of a friendly arbitration), and enables the Revenue officer to secure the results arrived at, by affirming them and granting an 'instrument of partition' as circumstances may require. Sec. 119, &c.

On this subject the Financial Commissioner remarks (*Book Circular* 41 of 1887, § 21):—

'By section 123 it is not intended that in every case in which a partition has been effected without the assistance of a Revenue officer, an application must be made to a Revenue officer under this section before the results can be entered in the annual record. If a partition has been completed and acted on, and there is no dispute on the subject, it can be brought to record in the manner provided in section 34 of the Act. But there are not infrequent cases in which, after a partition has been made and acted on by agreement, one of the parties to the partition refuses to consent to its entry in the annual record, or in which a co-sharer attempts to treat a temporary arrangement for the cultivation of the joint holding as if it were a final partition. If, when inquiring into a case of this nature in proceedings under section 34 of the Act, a Revenue officer finds that the facts are such as to require detailed investigation, he should leave it to the party who desires that the partition be affirmed to make the formal application contemplated by section 123.'

No Revenue officer, below the rank of first-grade Assistant Collector, can conduct the partition proceedings [1].

(F).—Tenant-Law Cases.

§ 15. *Parts of the Tenancy Act not before noticed.*

I have given, in the chapter on Tenures, a sketch of the history of tenants and their rights under the Act XVI of 1887. I have in this place further to add a notice of the duties of Revenue officers under the same law.

It will be observed the Hazára district has a special Tenancy Regulation which modifies in parts, the operation of the Tenancy Act as regards that district [2]. Here I am speaking of the Panjáb generally. After defining who are 'occupancy-tenants' and who are tenants-at-will, the Act goes on to deal with rents generally, as regards occupancy and other tenants. Under this head is treated the question of commuting grain-rents to cash, and of appraising crops and dividing produce. Enhancement, reduction, and alteration of rents follow. Next come provisions regarding ejectment of tenants and the connected subjects of relinquishment and abandonment of lands by tenants. Then follows the law regarding *alienation* of tenants' rights, and provisions regarding improvements and compensation for them in the event of ejectment. The rest of the Act is taken up with Jurisdiction and Procedure, and ends with certain salutary provisions preventing contracts or entries in records operating to deprive tenants of certain rights secured to them by the Act. In view of this arrangement of subject-matter, the best course for us will be to notice at what points the action of the Revenue officer may be called for. I may remark that the grades and designations of the officials are the same as under the Land-Revenue Act. Act XVI of 1887, sec. 75.

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[1] The Partition provisions are among the best of the many improvements the Act has effected. The old troubles about whether a Revenue officer could partition the village site (as land not assessed to revenue), and what was to be done when a dispute as to right or the mode of sharing arose, or whether the civil court could act when, a revenue partition having been made, a sharer declared he had not got (or could not get) possession of the share allotted to him,—all these are now obviated.

[2] See as to Hazára the end of Chap. II, p. 722. The *Legislative Department's Panjáb Code* (2nd edition, 1888) very conveniently gives the Hazára provisions at the foot of the page, and thus enables the reader to see where the differences are.

It will at once appear that cases under the Tenant Act can be divided into two classes. (A) is a series of 'applications,' which do not involve the whole process of a 'suit,' and yet where an order is required or some action has to be taken, in respect of which there may be parties to be heard, and perhaps evidence to be recorded. (B) is a series of matters in respect of which regular *suits* have to be filed—only that, as they are eminently fitted for disposal by officers with revenue experience, these officers are constituted 'Revenue courts' with a view to their disposal and to the hearing of appeals.

A procedure is also provided, partly by the Act, partly by Rules under section 85; and the course of appeal applicable both to 'orders' (on applications) and 'decrees' (in the 'suits') is laid down.

The Act defines (under three groups) what are the 'applications,' and what grades of Revenue officers may dispose of them, respectively. It is also defined (under three groups) what are the revenue 'suits' which Revenue courts hear. Sec. 76. Sec. 77.

§ 16. *Civil Court's Jurisdiction barred.—Cases of doubt.*

Secs. 98, 99, 100. In either case, the jurisdiction of any other Court or authority is barred. But under this head attention is called to the novel and convenient provisions of the Act, which (1) give power to refer issues to the civil court; (2) provide for the final decision of doubts as to jurisdiction; (3) prevent failure of justice arising from a technical want of jurisdiction, though the case has been fairly and adequately tried in the wrong Court.

§ 17. *Applications.*

Sec. 76. Referring to the *first group* as it appears in the Act, which comprises cases where rent is payable in money, that marked (*a*) refers to the common case of rents where the tenant pays the revenue and cesses with or without the addition of a 'málikána' or payment to the proprietor; and when, at a general assessment, the Settlement officer is distributing the burden over the holdings in the estate, the landlords may find it necessary to have the proper share of the revenue, which forms part of the tenant's rent, adjusted also. In fact, the tenant *so far* comes into the 'báchh'; he is one of those who have to pay a certain portion of the total (whatever addition he may have to pay besides, to his landlord). So also the addition which goes to make up the rent, may be calculated as a percentage on the revenue, and will require to be adjusted according as the revenue share is fixed. No rules have been issued with reference to these provisions, but *Financial Commissioner's Book Circular*, 41 of 1887, remarks that the Revenue officers will be guided by the same regard to generally accepted usage and to the wishes of the parties as is usual when distributing land-revenue. On the one hand it is desirable that the method of distribution should be in agreement with previous usage and have the consent of the parties concerned; and on the other, that when disputes arise they should be decided on their merits, without too rigid adherence to previous practice, if that practice has become unsuitable owing to altered circumstances.

(*b*) Remission or suspension of rent under section 30 calls for no remark, but attention will be given to the principle that whenever a landlord gets any relief on his revenue-payment by way of suspension or remission, he is bound to pass the relief on also to his tenants.

(*c*) It may be remarked that the effect of requiring the application here, is to give the tenant fifteen days' grace to pay up, before he is actually ejected.

(*d*) Refers to the case where a tenant has no other objection to bring a notice of ejectment, except that, as a tenant who has cleared the land, he has a claim to compensation for disturbance or on account of any improvements he may have effected.

(*e*) Needs no explanation; nor does (*f*).

The head (*g*) includes an application (to the Collector only) by a landlord to be allowed to make an improvement on the holding of an occupancy-tenant. No rules have yet been made, but such applications are not likely to be frequent. On this subject it will be sufficient to refer to *Financial Commissioner's Consolidated Circular*, No. 17, § 10. The works are of two classes: in one, the improvement (e.g. of canal irrigation) does not materially increase the labour and cost of cultivation: in this case it is unlikely that any objection will arise. In the other class it does: e.g. by insisting on sinking a well, the landlord *may* be imposing on the tenant the 'heavy expenditure necessary to successful well-irrigation in the Panjáb.' This it may be hard for him to undertake. If difficulties arise, they can be met by rules 'adapted to local requirements and to the merits of each class of improvement.' Sec. 61

The *second group* comprises the tenancies in which not cash-rent, but a share of the produce, is payable, and some question arises as to its amount. The case (*i*) in this group corresponds with (*d*) in the *first group*, except that here there is no question of payment, but only of seeing that a notice in proper *form* and at the proper *time*, was *duly served* on the tenant.

The *third group* are miscellaneous cases which are at once understood by reference to the sections quoted.

§ 18. *Suits.—Enhancement and Reduction of Rent.*

Sec. 77. The revenue 'suits' which are heard under the Act also fall into three groups: (1) comprises suits between landlord and tenant for enhancement or reduction of rent under section 24, for abatement of rent, and for commutation of grain to cash-rents. The application of rules of enhancement is always subject to section 25, 'which gives to a Revenue court discretion to decide, within the limit fixed by the Act, the amounts to which the rent should be enhanced or reduced. In exercising this discretion, a Revenue court should, among other matters, take into consideration the circumstances of the tract in which the suit arises, and the rates of rent or málikána previously paid. For example, in some parts of the Delhi division, tenants with rights of occupancy have hitherto paid little in excess of the current demand for land-revenue and cesses; while in the Lahore division comparatively high rates of málikána have been common. It is not proposed at present to lay down any precise rules . . . . but this much may be said, that while the claim of the landowners to an increased rate of profit should be fairly satisfied, severe enhancements, much exceeding in their results the standard of rents commonly paid by other tenants with a similar right of occupancy in the neighbourhood, should be avoided[1].

Secs. 29–30. It should be observed that a court cannot grant *remission* of rent, without the previous sanction of the Collector. The record will therefore have to be forwarded with the grounds of the proposed remission. On a full cash-rent, varying in amount according to the results of harvest, remission for calamity should readily be allowed. But if it is a fixed rent of such a nature as to secure the tenant a large profit in a good year, remission should not be allowed, except on account of specially severe losses, or when a succession of bad harvests occurs.

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[1] *Financial Commissioner's Book Circular*, 41 of 1887, § 5.

Section 29 applies to all cases of decrees for arrears of rent.

§ 19. *Suits to establish or refute a Right of Occupancy.*

The *second group* of suits includes (*d*) suits to establish or disprove a right of occupancy: those suits of course depend on the elements of right recognised by the Act which have been discussed in the chapter on Land-Tenures.

§ 20. *Ejectment Suits.*

The head (*e*) Ejectment, in this group, is an important one.

The remarks in *Financial Commissioner's Circular*, 41 of 1887, on the subject of ejectment generally, deserve here to be quoted, though some of them refer to the ordinary *notice of ejectment* served on a tenant-at-will, which is not a matter of *suit* in all cases :—

'On the subject of ejectment the most important innovations are as follow :—

(i) The date by which the notice must be served is earlier than has hitherto been appointed for this purpose. Sec. 45 (2).

(ii) If the notice is not contested, the Revenue officer has authority to determine any compensation due to the tenant. Sec. 71.

(iii) If the notice is contested, and the suit fails, the decree must direct the ejectment of the tenant, thereby avoiding all necessity for issue of a second notice. Sec. 45 (6).

(iv) A court hearing a suit relating to ejectment is bound to invite a tenant to state his claim to compensation; and if ejectment is decreed, then to deal finally with that claim. Sec. 70.

(v) If ejectment is decreed and the decree bears date later than the 15th of June, execution need not necessarily be delayed till the 1st of May following; but the Sec. 47.

court may, if it think proper, direct earlier execution, as may be fair in the circumstances of each case.

'The word "year" in sub-section (2) of section 45 relates to the agricultural year, as defined in definition (17) of section 4' [and is the same—viz. 16th of June—as under Act XVII of 1887].

. . . .

Sec. 49. 'The provisions of section 49 on the subject of an ejected tenant's claim to growing crops differ materially from those of the (former) law; and will, it is believed, secure fair treatment equally of the claims of the tenant and of the landlord. Some illustrations of the section may conveniently be given here.

'(*a*) A tenant is served with a notice on the 1st of November, when he has not yet harvested his crop of maize. He may harvest it undisturbed, and may follow it with any crops which will probably be off the ground by the end of the agricultural year (15th June); and if the rent for which the tenant is already liable covers these crops, it would not be fair to charge him at the time of his actual ejectment with additional rent under sub-section 2 (*a*) of this section.

'(*b*) Another tenant similarly served with notice, and having part of his land under sugarcane, clears that crop by February, and then sows at once another crop of a kind which cannot be harvested in the agricultural year then current. This would clearly be an attempt by the tenant to evade ejectment and to extend his tenancy into another agricultural year. On the landlord's application, the court or Revenue officer should either charge the tenant an additional rent for the new crop, or, subject to the payment of a fair sum down by the landlord on account of the growing crop, eject the tenant as provided in sub-section (2).

'(*c*) A tenant who cultivates eight acres is served with notice of ejectment on 15th November, and, filing a suit to contest it, goes on with his husbandry as before. On 1st August the suit is decided against him, and immediate ejectment is ordered. He has on the tenancy three acres of *chari*[1] and five more acres thoroughly prepared by repeated ploughings

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[1] The greater millet (*Holcus spicatus*) chiefly grown as a fodder crop, but also for the grain.

> for rabí' sowings. The court executing the decree would ordinarily allow the tenant to reap the three acres of *charí* before the decree is enforced respecting the land on which that crop is growing. But of the other five acres prepared for rabí' sowing, the court would give the landlord possession as soon as he paid the cash sum fixed as the remuneration due to the outgoing tenant for his work in preparing the land for the rabí' sowing.

'No advantage has yet been taken of the power given Sec. 52 equally in the previous Tenancy Act and in the new Tenancy Act to vary the dates prescribed in the Act in respect of notices and times of relinquishment and eviction. And experience has shown that it is convenient to adhere to the same dates in the province at large. But there will be no objection to considering special proposals in respect of any mountain tract where different dates may be required by the special circumstances of the local agriculture.'

§ 21. *Other Suits.*

The remaining suits in the *second* and also in the *third* groups, do not call for much remark. Regarding the second group (*f*), it is only needed to say that '*village cesses*' are for the benefit of proprietors, and are not connected with State revenue or cesses, or with the *village officer's cess*, by which *lambardárs* and *patwárís* are remunerated.

'Village expenses,' or *malba*, mean the costs incurred by the headmen, as explained in the remarks on Village Tenures. If the co-sharers think the headmen have been extravagant, or have really not spent the money, or have been appropriating funds that ought to have been available to meet such expenses, there will naturally be a dispute, and a suit of this class will settle it.

In the *third group*, suits for *arrears* of rent are always subject to section 29. The suits under head (*p*) will occur when, for example, the lambardár applies for assistance under section 97, and the Collector refuses to issue summary process, when there is reason to suppose the lambardár himself to be at fault, or to have made a mistake in his demands.

§ 22. *Procedure.*

The rules for procedure under section 85 in the matter of *Revenue officers* and *applications* to them, have been issued in Notification 77 (*Gazette Extraordinary* of 1st March, 1888, page 79).

As usual in Revenue proceedings, the object is to get the parties themselves before the officers, to have plain matters of fact settled without technical objections. If a legal practitioner is allowed, that will not obviate the necessity for the party to attend personally.

Sec. 87. Costs of legal practitioners will not be allowed, unless the presiding officer decides that it is proper to allow them.

Sec. 88. The rules of procedure in *suits* are treated as a different matter. No special rules have been issued, and probably there will be but little necessity for any, as the Act itself gives instructions on several points, and these, with the general procedure of the Civil Code, will probably suffice at any rate for some time to come.

Rules under section 77 (4) have fixed the powers of Assistant Collectors of second grade, limiting them in group 3 of this section, to R.500 in amount, and in the case of náib-tahsíldárs with second-grade powers to R.100.

§ 23. *Arrest and Imprisonment of Tenants, &c.*

Sec. 96. Sec. 97. It is important to notice that (though there is a process of 'immediate' execution of decree for arrears of rent), no tenant, during the continuance of his occupancy, can be *imprisoned* in execution of a decree for arrears of rent. Such imprisonment would do more harm than good; it would take away the tenant from his work, and very probably throw the land out of cultivation for an entire season. And by rule 4, under the Tenancy Act[1], a process of arrest is not to issue (in either 'application' or 'suit') against a tenant or landowner who cultivates his own holding, between 1st April and 31st May, nor between

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[1] *Notification* 78, of 1st March, 1888. *Gazette* of that date, p. 81. (Rules made by the *F. C.* and sanctioned by Government (secs. 46, and 106 (1), (3)).

15th September and 15th November (these being the busy times; the first, that of gathering in the spring harvest; the second, that of sowing the wheat and barley, as well as of getting in some of the autumn crops). 'Reasons of urgency,' which must be recorded, are allowed as an exception to the rule.

§ 24. *Object of these Remarks.*

The student is expected to read the whole of the Procedure and other sections of the Act and Rules: my object is not to repeat the Act or incorporate it in my text, but to call attention to salient points in which the Panjáb law may be exceptional or novel, and to explain matters that a student with the Act and Rules before him might find a difficulty in understanding, if he has not already some local experience.

§ 25. *Other Heads of Revenue Duty.*

I need only briefly repeat that this is not intended as a manual of anything but the direct Land-Revenue duty of Revenue officers. I cannot therefore include subjects *indirectly* connected with Land-Revenue functions, and which occupy a prominent place in the *Financial Commissioner's Circulars*: such as duty under the Act for the Acquisition of Land for Public Purposes; duty under the rules relating to the Court of Wards (*Financial Commissioner's Consol. Circular*, No. 57); regarding advances for agricultural improvements and loans for agricultural purposes generally; duty under Act XX of 1883 (*Consol. Circular*, No. 55)[1] with reference to District Boards; or under the Canal Act (VIII of 1873; *Consol. Circular*, No. 53).

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[1] I have explained the nature of the *protection* afforded to the maker of improvements (by aid of loans or otherwise) in the matter of future assessment (see page 593, ante). For the rules as to granting loans and the terms of re-payment, &c., the *Circular* must be referred to.

END OF VOL. II.